

BRIEF FOR BAHAWALPUR PROVINCE



BY

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Chief of the Department of Justice

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DEDICATION

I dedicate this book to

Shaheed Azeem Baksh

of Abbasnagar and several other innocent persons who were killed at Farid Gate, Bahawalpur by bullets for the cause of Bahawalpur Province on 24th April, 1970.

And thereafter to

Shahzada Mlamoon-ur-Rashid

and

Mr. Mohammad Akbar Advocate

who unlike other leaders refused to apologise after imprisonment and instead preferred to undergo the entire terms of sentence rather to betray the cause of Bahawalpur Province.

I pay my tribute to

their heroic and resolute struggle and for their fortitude in the face of the grimmest hardship.

Author

ACKNOWLEDGMENTS

I Must record my deep and warm gratitude to my old friend Mr. Alam Ali Khera of Uch Sharif for his invaluable skill and patience in reading the proof of this book. To Mr. Mohammad Ali yusufi S/o. Ba-ba-e shahafat Sarhad late Allah Bakhsh yusufi go my special thanks for printing this book when it was left incomplete by the former printer, and I am sure without his co-oppration, the task would have been a far more difficult and probably this book would have not been completed.

Author

P R E F A C E

BAHAWALPUR people long since expected some one to prepare their Brief for. a separate Province, more so by a person who feels their feelings, thinks their thoughts and voice their desire. With all my failings, I have undartaken this difficult job with the deep sense of patriotism, for the sacred land of Bahawalpur.

Paul Sethe, The German Historian, said once about the colonialism, "It was nothing but the action of age-old universal instinct of every state to satisfy the over power desire for growth, expension and domination." If there is No resistance in our body politics, we cannot therefore blame our colonialists and instead we have to blame ourselves. There are always constitutional means for us to show our resistance against such growth expansion and dominatiqu.

When Bahawalpur was marged in the Province of West Pakistan, the Bahawalpur poeple developed a unique taste for silence and not a single voice was heard in protest from any quarter, but when the Province of West Pakistan, Was dissolved and the Bahawalpur division was incorporated in the Province of the Punjab, this land of peace and quiet was in tremour.

Bakunin, said once "in the capitals the orators thunder and rage, but in the villages, is the silence of centuries". His sayings was no longer true in the case of Bahawalpur region, where villagers equally rose up in tears and blood on seeing their territory merged in the Punjab. The first bullet was in fact on the chest of Azeem Bakhsh a villager from Abbass nagar His bones lie burried deep in the mud below, but his outraged powerful spirit will live always in our hearts

The problem of Bahawalpur is one, that has been awaiting a solution for a long time. The Adversaries had shed a false light on it, and violently opposed the demand on the ground that those who want to see the former Bahawalpur State into a Province, in reality desire to revive the princely state. On the other hand, these adversaries equelly get frightened from the linguistic province of "Saraikistan" because in the re-organisation of the Provinces in the West Pakistan on the generally recognised principles, the adversaries are going to be the losers. I have placed before the readers both sides of the Picture. The time is on our side and it is only matter of time when Bahawalpur Province is formed.

AUTHOR

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CHAPTER I

The Conditions of the Problem.

1. The existing structure of the Provinces of the Pakistan is partly the result of accident and the circumstances attending the growth of the British power in the un-divided India and partly a by-product of the historic process of the integration of former Princely States. The division of India during the British period into British provinces and Princely States was itself fortuitous and had no basis in the history of the subcontinent. It was on account of 1857 Mutiny that the East India Company abandoned, the objective of extending the British dominion by absorbing princely territories, and it was again by chance that the surviving States escaped annexation. The map of the territories annexed and directly administered by the British, was also not shaped by any rational or scientific planning but "by the military, political or administrative exigencies or conveniences of the moment".

2. The provincial organisation of British India was meant to serve a two-fold purpose ; to uphold the direct authority of the supreme power in areas of vital economic and strategic importance and to fill the political vacuum arising from the destruction or collapse of the former principalities. Of these two, the first was obviously the primary objective, and it required the suppression of the traditional, regional, and dynastic loyalties. This

was sought to be achieved, by erasing old frontiers and by creating new provinces which ignored natural affinities and common economic interests. The administrative organisation of these provinces was intended to secure their subordination to the Central Government, which was the agent and instrument of imperial control exercised from London. This process inevitably led to the formation of provinces with no natural affinity.

3. During the early phase of the rise of the British power in India, moreover, the accretion of territories was gradual and the need for the rationalisation of administrative units was not seriously felt. British dominion in the undivided India started with small settlements in the coastal regions established at different times during the seventeenth century. From the middle of the eighteenth century, they provided the basis from which British authority expanded inwards by the acquisition of further territories which were attached to one or the other of the three presidencies.

4. The presidencies of Madras and Bombay had practically acquired their final shape by 1801 and 1827 respectively. Accretion of fresh territories to the Bengal Presidency, however, continued upto the year 1865.

5. The Charter Act of 1833 had provided for the creation of a fourth presidency out of the overgrown presidency of Bengal, to be called the Agra Presidency. It was, however, considered expedient later to set up a less expensive form of Government for the new province, and accordingly the North-West Provinces were set up under a Lt. Governor in 1836 by detaching from Bengal all British territories west of Bihar. The Punjab annexed in 1849, was the next province to be formed. It extended at that time upto the then North-West frontier province as it stood before the establishment of the province of West Pakistan. Placed first under a Board of Adminis-

tration and later, in 1853, under a Chief Commissioner, the Punjab was made a Lt. Governor's Province on the transfer of Delhi to it in 1859.

6. Oudh, annexed in 1856, constituted a Chief Commissionership until it was joined to the North-west Provinces in 1877. The Central Provinces were formed in 1861 by taking the Saugor and Nerbada districts out of the North-west Provinces and joining them with the territories of the Raja of Nagpur that had been acquired in 1854. Assam, attached to the Bengal Presidency on its acquisition in 1826, was made a separate Chief Commissioner's province in 1874. In 1901 the strategically important North-west frontier regions were detached from the Punjab and constituted into a separate Chief Commissioner's province. This also resulted in the North-west Provinces and Oudh being renamed the United Provinces of Agra and Oudh.

7. Thus the formation of Provinces had been mainly governed by considerations of administrative convenience and economy and by reasons of military strategy and security. To the extent, therefore, there was a conscious or deliberate design behind the demarcation of the territories of administrative units, it was grounded in imperial interests or the exigencies of a foreign government and not in the actual needs, wishes or affinities of the people. Administrative convenience itself required compact units with some measure of homogeneity. In some cases, therefore various factors conducive to the growth of natural units operated in the back-ground. They were, however, subordinate to the prime considerations of administrative and military exigencies.

8. With the emergence of nationalism as a new factor in the last quarter of the nineteenth century, the policy of balance and counterpoise began to override purely administrative considerations in making

territorial changes, though on such occasions arguments based on administrative needs and other principles were also put forward. Thus, Bengal, undoubtedly large in size as it included at that time also Bihar and Orissa, was divided with a view at least as much to dispersing revolutionary elements as to securing more manageable administrative units.

9. In 1905 Bengal was divided to form, along with Assam, the provinces of (a) East Bengal and Assam and (b) Bengal, which included the Western part of Bengal, Bihar, Orissa and Chota Nagpur. The change in the outlook regarding provincial boundaries was reflected in the famous Resolution of Lord Curzon, dated 19th. July, 1905, which while providing for the partition of Bengal, also commented on the proposed territorial re-alignment of areas between Madras, the Central Provinces and Bengal. Thus, "reasons of administrative expediency, arising out of the peculiar linguistic and racial conditions and the geographical conformation of Ganjam and the Agency tracts of Vizagapatam" were cited against the transfer of these areas from the Government of Madras. The Commercial considerations were relied upon for the continued retention of the districts of Chota Nagpur under the Bengal Government. The linguistic principle was mentioned in support of the transfer of certain Oriya-speaking tracts from the Central Provinces to Bengal; and the principle of close contact between the governors and the governed was put forward to justify the concentration of the Muslim population of Bengal in a separate province of East Bengal and Assam.

10. Six years later the partition of Bengal was annulled, though it was considered impossible both on "political and on administrative grounds" to revert to the status quo ante. In 1912 Assam was re-constituted into a Chief Commissioner's province and the Eastern and Western parts of Bengal were rejoined to form the province

of Bengal, At the same time, Bihar, with Orissa and Chota Nagpur, was constituted into a separate province of Bihar and Orissa.

11. These changes were made in order to provide convenient administrative units and to satisfy the legitimate aspirations of the people of Bengal. At the same time, they sought to give the Muslims "a position of approximate numerical equality with or possibly of small superiority over the Hindus" in the new Bengal, formed after the detachment of Bihar and Orissa, which province was intended to give the Urdu speaking population "a fair opportunity for development". The settlement was supposed to be "so clearly based upon broad grounds of political and administrative expediency as to negative any presumption that it has been exacted by clamour or agitation".

12. The shape of the provinces and the principles underlying their formation, before and after 1905, continued, however, to be very far from satisfactory. As late as 1930 British Statesmen themselves admitted that there were in the un-divided India "only a number of administrative areas" which had "grown up almost haphazard as the result of conquest, supersession of former rulers or administrative convenience". The desirability of a reorganisation of provinces on a rational basis was pointed out earlier by the authors of the Report on Indian Constitutional Reforms 1918, who had observed: "We are impressed with the artificial, and often inconvenient character of existing administrative units." The Indian Statutory Commission, 1930, endorsed this view and observed; "Although we are well aware of the difficulties encountered in all attempts to alter boundaries and of the administrative and financial complications that arise, we are making a definite recommendation for reviewing, and if possible resettling, the provincial

boundaries of British India at as early a date as possible". The commission recommended the examination of the question by a Boundaries Commission under a neutral chairman".

13. The Commission made a special mention of Orissa. "An urgent case for consideration and treatment it observed, "is that of the Oriya-speaking peoples, most, but not all, of whom are now included in Orissa, because we consider that so close a union as now exists between Orissa and Bihar is a glaring example of the artificial connection of which are not naturally related."

14. The province of Orissa was created in 1936 by joining together the Oriya-speaking areas of the provinces of Bihar and Orissa, the Central Provinces and Madras. The commission might have joined together also the Saraiki speaking areas and created a Saraiki province, but for the Second World War which engaged the British Government to the extent that the question of re-settling the provincial boundaries went into abeyance. The administrative units of the British India had remained, therefore, virtually intact at the time of the achievement of the Pakistan Independence and continued to be so till 1955, when the Province of West Pakistan was created by integrating into it, all the Provinces and majority of the states situated in the West Wing, only four States namely Swat, Chitral, Dir and Amb survived the process of integration.

15. The process of integrating these diverse units and constituting them into one unit created an immense hatred against the Punjabi speaking people, in the mind of the rest of the people of the West Pakistan, the compulsion of the dynamic urge of disintegrating the West Pakistan, necessitated prompt decision, therefore West Pakistan (Dissolution) Order 1970 was enacted which is again in the nature of transitional expedient in as much

as it did not take factors such as linguistic, ethnic homogeneity and historical tradition into consideration. The present alignment of the boundaries of the present provinces in place of the former province of West Pakistan, are the same which had been largely determined by the vicissitude of British Rule in the undivided India and the only change which had been made is that the acceding Princely States were merged in the adjoining provinces.

16. Even before the Act of 1935 introduced, to a limited extent, the federal principle in the Government of undivided India, the relative status of administrative units vis-a-vis the Central Government had varied from one category to another. This was to a certain extent due to the historical reason that different parts of the country were acquired and their administration organised by the British at different times, so that they could not be patterned as units of an administrative structure constituted on a systematic and rational basis. Considerations of economy and administrative expediency also led the British rulers to give to newly-organised and smaller provinces less expensive and simpler Government than that of the older, more settled and developed provinces.

CHAPTER II

Reasons for Re-organisation

1. The demand for the re-organisations of the present provinces in Pakistan is often equated with the demand for the formation of Linguistic Provinces. This is because the movement for redistribution of British Indian Provinces was, in a large measure, a direct outcome of the phenomenal development of regional languages in the Nineteenth century which led to an emotional integration of different language groups and the development amongst them of a consciousness of being distinct cultural units. The public opinion in West Pakistan, soon after the establishment of the Province of West Pakistan started crystallising in favour of rationalisation of administrative units, the objective being conceived and sought in terms of linguistically homogeneous units, if and when one unit was broken. A shift in emphasis on the linguistic principles and a growing realisation of the need to balance it with other factors relevant to the re-shaping of the Political geography of Pakistan, such as national unity, administrative, economic and other considerations, have been suggested, which are very important no doubt. In the paragraph which follows, the evolution of thought, on the rationale and objectives of the reorganisations of Provinces with particular reference to the concept of Linguistic Provinces are traced out.

THE BRITISH APPROACH

2. As observed earlier, during the British period, territorial changes were governed mainly by Imperial interest. However, the Linguistic Principle figured, for the first time in a letter from Sir Herbert Risby, Home Secretary, Government of India, written to the Government of Bengal dated 3rd December, 1903, in which the proposal for the partition of Bengal was made. Later, in the partition Resolution of 1905, and in the dispatch of Lord Hardinge's Government to the Secretary of State dated 25th August, 1911, proposing the annulment of partition, language was again prominently mentioned. The Linguistic principle was, therefore, pressed into service because the British Regime assumed from its practical experience that different linguistic groups constituted distinct units of social feeling with common political and economic interests.

3. The authors of the Montagu-Chelmsford Report, 1918, approached the problem with greater objectivity. They examined the suggestion for the formation, within the existing provinces, of sub-provinces on a linguistic and racial basis, with a view mainly to providing suitable units for experiment in responsible Government. They commended the objective of smaller and more homogeneous units. To quote them in their own words, they wrote :

“We cannot doubt that the business of Government would be simplified if administrative units were both smaller and more homogeneous; and when we bear in mind the prospect of the immense burdens of Government in India being transferred to comparatively inexperienced hands, such considerations acquire additional weight. It is also a strong argument in favour of

linguistic or racial units of Government that, by making it possible to conduct the business of legislation in the vernacular they would contribute to draw into the arena of public affairs, men who WERE NOT ACQUAINTED WITH ENGLISH”.

4. The joint representation was made by the Congress and the Muslim League on 29th November, 1917, before the Montagu - Chelmsford Reform Enquiry Committee, wherein the linguistic principle was pressed into service for re-shaping the provinces. It will be useful to say here that besides Muslim League, the eminent Muslim Leaders like Qaid-i-Azam, Sir Mohammed Shafi, Syed Amir Ali, Abdullah Suharwardy and Sir Fazal Hussain had accepted the Reforms proposed by the Committee.

5. Twelve years later, the question of redistribution of provinces was considered by the Indian Statutory Commission. They recognised that the provincial boundaries, as they then existed, embraced, in more than one case, areas and population of no natural affinity and separated those which might be under a different scheme to be more naturally united. Speaking of the factors which should govern redistribution, the Commissioner stated :

“If those who speak the same language form a compact and self-sustained area, so situated and endowed as to be able to support its existence as a separate province, there is no doubt that the use of a common speech is a strong and natural basis for provincial individuality, but it is not the only test—race, religion, economic interest, geographical continuity, a due balance between country and town and between coast line and interior, may all be relevant factors. Most

important of all perhaps, for practical purposes, is the largest possible measure of general agreement on the changes proposed, both on the side of the area that is gaining, and on the side of the area that is losing, territory."

The commission thus gave only full support to the linguistic principle. It attached great importance to agreement amongst the people affected by the changes.

6. The Indian Statutory Commission's view that the question could not be settled by any single test received support from the O'Donnell Committee, which was appointed in September, 1931, to examine and report on the administrative, financial and other consequences of setting up a separate administration for "the Oriya-speaking peoples" and to make recommendations regarding its boundaries in the event of separation. In framing their proposals, the Committee took into account all relevant factors, such as language, race, the attitude of the people, geographical position, economic interest and administrative convenience. But more than all these factors, the committees claimed to attach "great, indeed, primary importance to the wishes of the inhabitants where they can be clearly ascertained". On the same principle Sind came into existence along with Orissa in April, 1936.

THE APPROACH OF THE INDIAN NATIONAL CONGRESS

7. The Indian National Congress lent indirect support to the linguistic principle as early as 1905 when it backed the demand for annulling the partition of Bengal which had resulted in the division of the Bengali-speaking people into two units. Yet another concession to the linguistic principle was the formation of a separate Congress province of Bihar

in 1908, and of the Congress Provinces of Sind and Andhra in 1917. This involved a deliberate departure from the normal organisational pattern which had so far followed the boundaries of the existing administrative provinces. However, at this stage, Congress' opinion had not clearly crystallised in favour of linguistic provinces and at the session of 1917 the principle was strongly opposed by the group led by Dr. Annie Besant.

8. It was only some fifty years ago that by the efforts of Qaid-e-Azam, the Indian National Congress was converted officially to the view that Linguistic Provinces were desirable. It was at its 1920 session at Nagpur that the Congress accepted the linguistic redistribution of Provinces as a clear political objective. It is significant to note that Quaid-e-Azam presided at the Session when this view was accepted. Another historical event of this Congress Session was when subsequently Quaid-e-Azam resigned from the Congress Membership when a resolution was also carried in support of Mr. Gandhi's Non Co-operation movement.

9. In 1927, following the appointment of the Indian Statutory Commission, the Congress adopted a resolution expressing the opinion that "the time has come for the redistribution of provinces on a linguistic basis" and that a beginning could be made by constituting Andhra, Utkal, Sind and Karnataka into separate provinces. Those supporting the resolution spoke of the right of self-determination of the people speaking the same language and following the same tradition and culture.

10. The question of redistribution of provinces was also examined by the Nehru Committee of the All Parties Conference. The Committee lent its powerful support to the linguistic principle in the following terms :

"If a province has to educate itself and do its daily work through the medium of

its own language, it must necessarily be linguistic area. If it happens to be a Polyglot area difficulties will continually arise and the media of instruction and work will be in two or even more languages. Hence it becomes most desirable for provinces to be re-grouped on a linguistic basis. Languages as a rule corresponds with a special variety of culture, of traditions and literature. In a linguistic area all these factors will help in the general progress of the province”.

11. The Nehru Committee recommended that the redistribution of provinces should take place on the basis of the wishes of the population, language and geographical, economic and financial principles. Of all these factors, however, in the opinion of the Committee, “the main considerations must necessarily be the wishes of the people and the linguistic unity of the area concerned”. It will be of interest, however, to note that the Committee, while recognising that the argument for the separation of Sind from Bombay Presidency was very strong on the grounds that it was a definite linguistic area and that the great majority of the people demanded separation. It also on the same principle recommended that the North West Frontier Province and Baluchistan were to be treated on the same footing as the other Provinces.

12. On 12-2-1928, an All Parties Conference was held at the instance of the Congress, for working out an agreed constitution for the British India for full responsible Government, since the British Crown had much earlier invited the main parties to come to some definite understanding. Quaid-e-Azam M. A. Jinnah was one of the participant in the conference. The All Parties Conference unanimously agreed for the redistribution of the Provin-

ces on a Linguistic and cultural basis by their joint resolution, but unfortunately they were at variance on the future constitution, Quaid-e-Azam wanting a Federal Pattern and Congress endeavouring for a unitarian system.

13. Between the years 1928 and 1947, the Congress reaffirmed its adherence to the linguistic principle on three occasions :

- (i) at its Calcutta Session held in October, 1937, it reiterated its policy regarding linguistic provinces and recommended the foramation of the Andhra and Karnataka provinces ;
- (ii) by a resolution passed at Wardha in July, 1938, the Working Committee gave an assurance to the deputations from Andhra, Karnataka and Kerala that linguistic redistribution of the provinces would be undertaken as soon as the Congress had the power to do so, and
- (iii) in its election manifesto 1945-46, it repeated the view that admintstrative units should be constituted as far as possible on a linguistic and cultural basis.

THE APPROACH OF QAID-E-AZAM AND MUSLIM LEAGUE

14. In order to make an effective compromise between Hindu and Muslim, a joint session of Congress and Muslim League was convened in 1916 at Lucknow which was presided over by the Qaid-e-Azam. Qaid-e-Azam and the Muslim League demanded that Sind be made a separate province on the basis of distinct language and culture, but instead Qaid-eAzam and Muslim League received for the Muslims a fixed proportion of seat in the provinces and centre. This Pact Popularly, known as Congress League Lucknow Pact 1916, concluded with a resolution that the time

had not yet reached for such demand to make Sind a separate Province.

15. It was at the instance of Qaid-e-Azam who was then a leader of All India Congress that the said organisation in its Nagpur Session held on 20-3-1927 was officially converted to the view that the Linguistic distribution of Provinces was necessary. Congress had been hesitant so far on account of Sind which was definite Linguistic area, and the great majority of the people demanded separation. Again Qaid-e-Azam reaffirmed his adherence to the Linguistic Principle when at his instance "The All Parties Conference" unanimously agreed by a joint Resolution dated 12-2-1928 for the redistribution of the Provinces on a Linguistic and cultural basis. Qaid-e-Azam, representing All India Muslim League, was the signatory of this resolution. It is significant to note here that the two nation theory had not been pressed so far by the Muslim League.

16. Nehru report proposing the Draft Constitution for the British India had been published by this time and Qaid-e-Azam was the main critic of the Report. As an alternative he formulated his 14 points in 1929 as the proposed future constitution. The homogeneity of Language again entered into his consideration when he demanded separate Province of Sind on Linguistic and cultural basis and further demanded that any territorial redistribution that might at any time be necessary should not in any way effect the Muslim majority in the Punjab, Bengal and the North West Frontier Province. He had anticipated the necessity of the territorial redistribution of Provinces, as he himself was of the view that the Provinces had been formed for administrative convenience and on no logical basis.

17. Qaid-e-Azam and the working committee of the All India Muslim League by a resolution dated 11th April, 1942, rejected the Interim proposal made by Mr. Churchill, the British Prime Minister, regarding the future constitution

of British India on the ground that the right of non-accession had been given to the provinces which had been formed, from time to time, for administrative convenience and on no logical basis. From this resolution follows vital conclusion that the present provinces of Pakistan are itself fortuitous and embrace in them areas and population of no natural affinity and it is time to reshape them on recognised principles.

THE APPROACH OF LATE HIS HIGHNESS AGHA KHAN

18. An All Parties Muslims Conference was held at Delhi under the able Chairmanship of Late His Highness Sir Agha Khan to make the comments on the draft Constitution proposed by the British Government as the constitution of the British India. By a joint resolution dated 1st. January, 1919, under the signature of late H. H. Agha Khan, the Conference demanded that, on ethnological, linguistic, geographical and administrative grounds, the Sind, which had no affinity whatsoever with the rest of the Bombay Province, be made into a separate Province. There is no doubt for the belief that Muslims, since 1919, are demanding that the Provinces be reshaped on ethnological and linguistic grounds.

THE APPROACH OF DR. IQBAL

19. The architect of Pakistan, Doctor Sir Mohammed Iqbal, in his famous Presidential address of All India Muslim League Session, held in 1930 at Allahabad, stated that the Muslims of India could have no objection to a purely territorial electorate, if the Provinces were demarcated so as to secure comparatively homogeneous, communities possessing linguistic, racial, cultural and religious unity.

THE APPROACH OF PROFESSOR TOYNBEE

20. European history, however, clearly shows that language is one of the fundamental elements of social life

and influences, to a large extent, national psychology, so much so that speaking of Central and Eastern Europe, Professor Toynbee has been led to observe that "the growing consciousness of Nationality had attached itself neither to traditional frontiers nor to new geographical associations but almost exclusively to the mother tongues". It is to be noted that most bilingual or multilingual States have had to face separatist movements. Belgium and Spain are notable examples. Catalan separatism has been one of the most persistent stands of Spanish history.

CHAPTER III

Time for Re-organisation

1. As stated earlier, the desirability of the distribution of provincial territories was recognised, from time to time, even by British Statesmen. As early as May, 1903, Lord Curzon, the then Governor General, considered the time to be appropriate for such an undertaking. However, the only result of Lord Curzon's initiative in the matter was the first partition of Bengal.

2. The Montagu-Chelmsford Report, 1918, recognised the need of a general redistribution, but did not consider the time opportune for such changes, because they considered it unwise to undertake simultaneously the making of the Constitution and breaking of the political geography of the country. It expressed the view that redistribution "ought in any case to follow, and neither to precede nor accompany constitutional reform" and suggested that, "It should be recognised as one of the earliest duties incumbent upon the Government to redistribute the Provinces on a logical basis".

3. The Indian Statutory Commission also recommended a re-adjustment of provincial boundaries, particularly in view of the change in the status of provinces, consequent on a substantial decentralisation of powers and the ultimate establishment of a federation of which the provinces would

form units. The Commission was conscious of the very great difficulties in the way of redistribution, but urged that the main cases in which provincial re-adjustment seemed called for, be investigated by a Boundaries Commission to be set up by the Government of India. No such commission was, however, set up. The only changes introduced, following this recommendation, being those relating to the creation in April, 1936, of Sind and Orissa as separate provinces.

4. During the period between 1936, and 1947, major political and constitutional issues upto 1939 and the prosecution of the war thereafter engaged the attention of the British Government and nothing further was heard about the re-organisation of provinces. After the end of the War, the Two nation theory gained momentum and India was divided into two separate countries—Bharat and Pakistan.

5. The problem of re-organising has become emergent because Pakistan has to think in terms of enduring political units. One of the main impediment in the way of re-organisation was that a certain measure of territorial inviolability was enjoyed by the former Princely States, both under the British Rule and during the period immediately following the transfer of power. The integration of these States has, however, removed this impediment and has paved the way for a national approach to the problem. It may be recalled in this connection that the Indian Statutory Commission had considered it extremely important that the adjustment of provincial boundaries and the creation of proper provincial area should take place before the New Process had gone too far. The constructive approach is, therefore, required. The dissolution of the province of West Pakistan and the creation of a new province of Baluchistan and the events leading thereafter have precipitated the matter further for making a separate Province for BAHAWALPUR. The most

of the political parties of Pakistan stand committed to the said demand. The task of re-drawing the Political map of West Pakistan must therefore be now undertaken and accomplished without avoidable delay because the change will give satisfaction to a substantial majority of the Bahawalpur people as well as the Saraiki speaking area.

6. The West Pakistan Legislative Assembly had passed resolution on 17-9-57 by 170 to 4 votes, recommending to the Provincial Government to communicate the view of the Assembly to the Parliament, that Province of West Pakistan be reconstituted as a Sub-Federation with four or more fully autonomous provinces. The word "MORE" was definitely meant for the Bahawalpuri and Saraiki speaking people.

7. Saraiki speaking people are the docile and a patriotic people with a past in which they take legitimate pride. The present position is, while they are the largest single language group in the West Pakistan, they are so dispersed between the present four provinces in the West Pakistan that they are everywhere in ineffective minority. It will be unrealistic to disregard the patent fact that there are in Pakistan distinct cultural units and among them the neglected unit is the Saraiki speaking area. The unity of the Country therefore should not be sought in terms of an imposed external unity but by a fundamental unity recognising diversity of language, culture and tradition of the people of Pakistan. The strength of Pakistan must be the strength which it derives from its constituent units. The people of Bahawalpur as well as the Saraiki speaking regions have a long history of exploitation in the hands of the Punjabi speaking people. This had led to the frustration and by the dissolution of the province of West Pakistan, the regional consciousness has increased all the more. Since the Unity and strength within the constituent units is a condition precedent to a healthy feeling of unity at the national level,

any attempt to eliminate tension, contradictions and to make units more homogeneous and internally cohesive is bound to strengthen the unity of the whole nation.

8. The time is now set that province known as SARAI-KISTAN be established forthwith by adding the districts of Multan, Muzaffargarh and Dera Ghazi Khan in the former State of Bahawalpur. They had been one people and they represent a pattern of living which is common in those areas. The emergence of such Province will keep balance of power within West Pakistan, which is most vital for the stability and the development of Pakistan. The wishes of the Saraiki speaking people of Multan, Muzaffargarh and Dera Ghazi Khan on the one hand and the people of the former Bahawalpur State on the other hand has to be ascertained for such proposed union. In the alternate, the objective be achieved, by restoring the frontiers of the former State into a new province of Bahawalpur.

CHAPTER IV

Language and Culture

1. The question that has caused the greatest controversy since 1919 is the position to be accorded to language in the re-organisation of the provinces of the sub-continent. One of the major facts of British India's political evolution during the last hundred years has been the growth of our regional languages. They have, during this period, developed into rich and powerful vehicles of expression creating a sense of unity amongst the peoples speaking them. In view of the fact that these languages are spoken in well-defined area, often with a historic background, the demand for the unification of such areas to form separate province has gathered momentum and has, in the case of Bahawalpur, assumed the form of an immediate political programme.

THE CASE FOR LINGUISTIC PROVINCES

2. The advocates of a rigid and uniform application of the linguistic principle, in determining the boundaries of provinces, advance important arguments in support of their claim which may be briefly stated and examined here.

3. A federal union, such as ours, pre-supposes that the units are something more than mere creation of administrative convenience. The constituent Provinces in a federal republic must each possess a minimum degree

of homogeneity to ensure the emotional response which is necessary for the working of democratic institutions. Pakistan can achieve this internal cohesiveness only if they are constituted on a unilingual basis, because language being the vehicle for the communion of thought and feeling, provides the most effective single bond for uniting the people. Linguistic homogeneity, therefore, provides the only rational basis for re-constructing the provinces, for it reflects the social and cultural pattern of living in well-defined regions of the country.

4. In a democracy, such as we now have in Pakistan, based on universal adult franchise, the political and administrative work of a Province is, of necessity, to be conducted in the regional language. A multiplicity of such languages would lead to weakness, inefficiency in administration, rivalry and jealousy in politics. It is pointed out that in past, in some of the Provinces, a large percentage of members in the legislature knew only one language and this trend is likely to become more and more emphasised in future. In some Provinces even ministers knew only one regional language. Discussions in legislatures would become difficult, if a considerable number of members are unable to follow the proceedings.

5. Under an alien rule the basic need of unity of outlook between the people and those governing them could be subordinated to imperial and other considerations. But under a democratic form of Government, based on adult franchise, it is imperative that there should be a real consciousness of identity of interests between the people and the Government, that both should work in an atmosphere of co-ordination and mutual understanding. The success of a welfare state depends, essentially on broad-based popular support, which cannot be secured if the processes of government are not brought home to the people. If the Legislature of a Province is not to develop into a babel of

tongues, it must conduct its work in one language i.e. the language of the people. The various devices adopted in multilingual Provinces, to meet the communicational needs of the people, have led only to dissipation of energy and national resources.

6. Educational activity can be stimulated only by giving the regional languages their due place. If the educated few are not to be isolated from the masses, the education of the people must necessarily be through the medium of the mother-tongue.

7. The demand for linguistic province does not represent mere cultural revivalism. It has a wider purpose in that it seeks to secure for different linguistic groups political and economic justice. In multilingual states, political leadership and administrative authority remain the monopoly of the dominant language groups and linguistic minorities are denied an effective voice in the governance of their Province. Even there where are substantial minorities, having adequate representation in the cabinet, the representatives of linguistic minority groups find it impossible, owing to party discipline and other factors, to do anything effective to safeguard the interest of minorities.

8. Similarly, in multilingual Provinces, welfare activity as well as development plans are unequally and unfairly distributed, the areas inhabited by the dominant language groups developing at the expense of other areas. The demand for unilingual Province, therefore, aims at securing for minorities a fair deal not only in the social and cultural spheres but also in the political and economic fields.

9. Conflict and discord are inherent in administrations in which diverse elements are forcibly held together. Where the requisite sense of unity is absent, an unwilling association or co-existence, however long, would not succeed in producing that atmosphere of mutual goodwill and understanding which is essential for the working of democratic institutions.

10. Under foreign domination, when opportunities for self development were denied to all alike, different linguistic groups should live together without apparent conflict. Now that the people of Pakistan have to shape their own destinies, consciousness of the lack of a community of interests between different language groups tends to become deeper and deeper with the progressive realisation of their divergent economic and other needs.

11. With the limited resources at the disposal of our country, plans for the economic development of different areas have inevitably to be based on a system of priorities and it is difficult to reconcile the rival claims of different regions. It is a peculiar feature of multilingual provinces that in each one of them suspicion of favouritism and charges of partiality have centred round the linguistic division, minority language group considering that it is being unfairly treated. Only the removal of minority consciousness by re-organising the Provinces on a unilingual basis can eliminate this wide-spread sense of distrust.

12. The argument that composite provinces provide a common meeting place for different linguistic groups and help time to accustom themselves to living together in a spirit of tolerance and understanding would have some validity if different linguistic groups were interspersed in these provinces. Far from this being so, there is, generally speaking, a clear-cut integration of different region in composite province each having its own linguistic homogeneity. The argument, therefore, that different linguistic groups in these areas are living together in close amity is unreal.

13. The political atmosphere, vitiated by linguistic difference, has now permeated into the administrative structure as a whole. Important administrative post tend to become the monopoly of the members of dominant language groups and appointments and promotions are no longer governed by consideration of administrative purity, efficiency and fairness.

14. The problem of reconstituting the provinces on Linguistic basis and creating a New province of Bahawalpur, which confronts Pakistan to-day is not unprecedented. Great many countries of the world were to face the same problem. Some solved it to their advantage and others refused to solve and met with its evil consequences. Both sides of the picture cited by the Advocates, adhering to the Linguistic Principle are placed for the appreciation of the readers.

HOW INDIA SOLVED THE PROBLEM

15. Having sponsored the linguistic principle for nearly 40 years, the linguistic redistribution of provinces had been an integral part of the Indian National movement. In early 1948, the Indian Government appointed a boundary commission, also known as DAR Commission which submitted its report in December, 1948. Thereafter the majority of the Provinces in the Indian Republic were reshaped and were made predominantly unilingual. The provinces of West Bengal, Orissa, Bihar, the U. P., Rajistan, Madhaya Bharat, Saurashtra, Mysore and Travancore-Cochin are all completely unilingual. The creation of Andhara as a new unilingual province had left residuary Madras mainly a Tamil province. Fazilka Tract was the only controversial issue which the Indian Government by a central award made in January, 1971, conceded the rightful claim of the Punjab and the said Tract with Chandigarh had been given to the Punjab. Doctor D. C. Pavate, the Governor of the Punjab, while welcoming the central award, asserted by his statement before the Punjab assembly on 15.1.1971, that Fazilka Tract is a Punjabi speaking area and his Government is committed to the retention and inclusion of all Punjabi speaking area in the State of Punjab. India has on account of this type of redistribution, solved its national aspirations and achieved an enduring constitution for her people.

HOW BELGIUM SOLVED THE PROBLEM

16. Belgium is a constitutional monarchy in the Western Europe and has one of the highest standards of living in the world. Two major ethnic groups, the Flemings and the Walloons, make up the greater part of Belgium's population. The Flemings are a Germanic people who speak Dutch and live in the northern and western parts of the country. The Walloons speak French and live in the Southern and Eastern Sections of Belgium. The dividing line, between the two linguistic areas, has changed little over the centuries. Rivalry and outright hostility between the Flemings and Walloons had become so immense that the linguistic dividing line had been established by law in 1963 which runs through the middle of the country. The dividing line has resolved the dispute. Both French and Dutch are the official national languages and all national Government publications are printed in both the languages. Likewise, in schools, Courts and the Government offices both the languages are used.

Belgium, with an area of 11,779 square miles and having a population of 9,328,000 is divided into nine provinces, each having its own Governor. The Fleming Provinces are administered in Dutch and the Walloon Provinces in French. Both the ethnic groups are content within their respective provinces and across the dividing line. The late King Albert, answering a compliment on the behaviour of his country, rightly replied that, "The solutions Belgium adopts for its social and Political problems, are always marked by common sense and compromise. There is nothing excessive in their private conduct."

HOW SWITZERLAND SOLVED THE PROBLEM

17. The tiny Switzerland is politically independent for the last one thousand years, although 70 per cent of its population are Germans, 22 per cent French and 7 per cent

Italians, each with its separate language. Switzerland has not lost anything but has gained from having not one single official language but three—German, French and Italian. Each language has its own canton (Province). One per cent of its population speaks Romansh, that also in two dialects. Switzerland is so concerned to respect the feeling of Romansh that the bills submitted to a referendum are printed in five languages, that is to say, two in Romansh dialects and three in official languages. Besides, in the cantons of GRAUBUNDEN and WALLIS, where Romansh is spoken, each Romansh dialect enjoys complete equality under the law of the land.

HOW LIBERIA SOLVED THE PROBLEM

18. Liberia, a country on the Western coast of Africa, was founded in 1847 by freed American Negro Slaves, with an approximate area of 43,000 square miles and with a present population of 2,500,000. The American Negroes started immigrating into Liberia since 1822, but the abyss divided the relatively small group of settlers and the over-whelming majority of the local population. A peculiar situation arose there, 20,000 new comers set themselves as masters of the two million local inhabitants. The new comers, who called themselves Americo-Liberians, so that they should not be mistaken for the "aboriginal Pagans", undividedly dominated the administrative machinery and the economy of the Country. The monopoly in the civil service, Army and commerce made them well-to-do people in life. They also turned into a hereditary caste of politicians, diplomats and lawyers. The locals defended their rights, at times, arms-in-hand. The conflict between the settlers and the local population made Liberia weak organically. The country was divided into two peoples in one State. The President Tubman, who came to office in 1944, realised that the many tribes, making up its population preserve, their ethnic distinctions and their own language and that was the main cause of

social contradictions. As a wise man, the President Tubman reconstituted the Provinces on 26th. June, 1964, on the Language and ethnic principles, although it was resisted by some groups of former Americo-Liberians who were afraid of losing their privileges on account of reconstitution. The policy of the President Tubman was progressive, and in accord with the wishes of the people. Although the local population has not yet been fully equalised in the rights and the privileges with the former Americo-Liberians by the reconstitution of the Provinces, but it has unified the locals and the settlers, who now call the Tubman's action as unification policy. Each tribe, each linguistic and cultural group is happy within its re-constituted Province.

The Americo-Liberians who were so distressed by the proposal of Tubman for reconstituting the province, that an attempt on his life was made, but when later on, they were convinced that the reconstitution of the Provinces had in fact, unified the two people of Liberia, they got the Liberians constitution amended and inaugurated President Tubman for the sixth time in the office, because originally the President stayed in office for not more than two terms.

HOW U.S.S.R. AND YUGOSLAVIA SOLVED THE PROBLEM

19. In the United States of Soviet Republic and Yugoslavia, efforts had been made to organise units on a linguistic basis. Though the Units, constituting the U.S.S.R., are organised generally on this basis, besides there are, in operation, adequate constitutional and ideological correctives which could be applied in the event any culture or language wishes to dominate over the other.

HOW THE REPUBLIC OF SOUTH AFRICA SOLVED THE PROBLEM

20. By the end of the First World War, South Africa was the youngest of British Dominions. It was founded in 1910 through the Merger of two British Colonies—Natal and Cape of Good Hope, with the Orange Free State and

the Transvaal. The four territories became provinces of the New dominion. The state formed in this way was called the "Union of South Africa" till 31st. May, 1961, when it was proclaimed "The Republic of South Africa".

By the end of First World War, the country had about seven million people. Even then the racial and national composition of its population was extremely varied.

Two third of the inhabitants of the Country were BANTU people :- ZULUS, XOSAS, BASUTO, BAPEDI, BECHUANA, SHANGAAN, SWAZI, NDEBELE, BAVENDA and others. The vast majority of ZULUS lived in NATAL; XOSAS in cape province; the Basutu, in the Orange Free State; The Bechuana, SHANGAAN, SWAZI, NDEBELE and BAVENDA, in Transvaal.

The European population, makes up only some 20 per cent of the total and these "Whites" rule the country by an APARTHEID Theory, which means separate existence and development of the superior white race. The "Whites" rule the country to the extent that the "Population Registration Act 1959" was enacted, to deprive coloureds, having a white skin, of the chance of posing as Europeans. Again in 1959, the Parliament passed the Extension of University Act. It said that students with different colour of skin could not study in the same University. Only whites were entitled to study in the existing Universities and special educational establishments were to be set up for Non-Europeans.

The United Nation General Assembly had, time and again, discussed the racial discrimination in South Africa and practically all the countries of the World had condemned the policy of the South Africa's regime.

In spite of the same, the South Africa's Parliament passed BANTU, Self-Government Bill, which was passed in 1960.

Under this law, the country's 264 reserves are to be gradually merged into several territorial units which are to become "Homeland" for the largest Bantu peoples—Zulus, Xosas and Bechuana etc.

Under the law, each of the principle Bantu peoples is to receive Self-Government within its respective "Homeland" having its own separate language.

The Bantustan Act enacted later, pursued several aims based on language and culture. In May 1963, South Africa Parliament passed a law on the establishment of first Bantustan, which took the official name of "The TRANS-KIE", the homeland of Xosas people. The Transkie, having an area of 35,000 sq.miles, has its own Legislative Assembly and Council of Ministers, its own flag and National Anthem.

All Xosas were proclaimed to be the citizens of the Transkie, even those who had been born elsewhere and had never actually lived there. The laws, passed in the Transkie, were to apply to all Xosas. The Transkie has its own separate language and the education is being imparted to its inhabitants in their own language, the educational activities have stimulated on account of the Regional languages.

The South Africa is setting up several other Bantustans, after experimenting with the ethnic group of Xosas and the demand is gathering momentum for the unification of the well-defined settlements where a distinct language is spoken.

CONSEQUENCES WHEN AUSTRIAN EMPIRE NEGLECTED TO SOLVE THE PROBLEM

21. The present Republic of Hungary was the part of the Kingdom of Austria and the Hungarians had their own tongue—The Magyar language, quite strange from the German language which rest of Austria spoke. The German speaking people who formed the absolute majority in

the Austrian Empire, tried to impose their language and culture on the Magyars, and there arose the linguistic conflict which threatened to break the Kingdom of Austria—Hungary. The King of Austria, being a wise man, in October, 1860, issued what is known as the "OCTOBER DIPLOMA" giving by the Royal decree, the recognition to the Magyar language as the official language. But unfortunate for the King, the German speaking people, no where gave the October Diploma a hearty welcome and it remained only ink on the paper. The Magyars were on the whole opposed and refused co-operation by the hold of the majority and slowly and gradually the Magyars travelled on the path to separation. The Kingdom of Austria—Hungary was destroyed and Magyars carved a separate country for themselves which is now the Republic of Hungary.

CONSEQUENCES WHEN TURKS TRIED TO IMPOSE THEIR LANGUAGE AND CULTURE OVER ARABIA

22. The biggest compact Empire known to the history, was the Turkish Empire which is now split into at least twenty new Nations and countries. The combined Muslim forces of Mohammed Ali, the Pasha of Egypt and Sultan of Turkey, fought the battle of NAVANIO against the combined Christian forces of Briton, France and Russia on 12th August, 1827 over the question of Greece. Islam was a strong factor which welded Turkey and Egypt together. In the Ottoman Empire there were two rival schools of thought in 1902, one was lead by Prince Salahuddin who founded the League of decentralisation, and was in favour of settling the nationalities question by creating autonomous provinces on the basis of decentralisation of the Empire. This trend was actively supported by the representatives of the Greek, Armenia, Albania and Arabs. The other school of thought advocated by the Political Party "YOUNG TURKS" favoured the formation of a single centralised Turkish State and they proceeded, from the assumption that

the Turks were the Predominant Nationality in the Turkish Empire. Within the Turkish masses, the "Young Turks" gained tremendous power and they compelled Sultan Abdul Hamid, the king of the Empire, to restore the Constitution and hold the elections which he did on 24th July, 1908. In the election the "Young Turks" was so Victorious that eventually it Forced Sultan Abdul Hamid to abdicate on 27th April, 1909 and succeeded in forming its Government.

The Young Turks armed themselves with the doctrine of Pan-Osmanism in its Turkish interpretation and pursued a policy of compulsory Turkisation of the Non - Turkish Nationalities. The National Schools were closed, the Turkish language was made the only official language of the Ottoman Empire. The Young Turk Government's Policy evoked opposition among the National minorities and compelled the Arab Nationalities to oppose the Young Turkish regime. The Arab-Ottoman Honeymoon had ended and the national movement acquired an openly Anti - Turkish character. The Political organisations in Arabia were banned, which constrained the leaders of Arab movement to change their Tactics and Political styles. In 1909 they founded Litrary club (El Muntada El Arabi), the official objectives of the club, although, were not political, but the Young Turks could not tolerate it. Four out of the Club's committee's six members were hanged and the club was declared unlawful.

"The Young Arab", a counter Political organisation, was founded in 1911, they wanted to be for the Arabs, what the "Young Turks" were for Turkey. Many of its members perished at the hands of "Young Turks' Government," others lived to become outstanding Politicians and Statesmen of Arab Countries like Rustum Haider, Jamil Mardan and Abdul Hadi.

Rafiqul Azam, a prominent Muslim publicist, philosopher and sociologist, who wanted the Islamic Empire

to exist tried all his efforts to bring reconciliation between the Arabs and Turks and as a solution, demanded only that Arabic be recognised as the official language and that it be introduced in the Arab Schools as a compulsory subject, but the "Young Turks" was not prepared to accept it, because the same concession they had to give it to Kurds in Kurdistan, Aramenians in Armania and to the Balkan peoples.

After the failure of Rafiqul Azam, the final attempt was made by the Beirut Committee of Reform. It demanded that all questions of local administration be handed over to the Autonomous Provinces. The Central Government was only to retain control over the matter relating to defence, foreign relations, State finances and the communications. The Civil Servants of one province were to be sent to the other Provinces for service. The Arabic should be recognised as the official language and should be used in parliament and in the official documents on an equal footing with Turkish. The Committee published its reform plan in February 1913, which was endorsed at mass meetings in Damascus, Aleppo, Akkra, Nablus, Baghdad and Basra. The "Young Turks' Government" flalty rejected the Beirut Reformer's conciliation and on 8th April, 1913, they even banned the Committee of Reforms and arrested its leaders. This outburst of indignation gave birth finally to the Pan Arab Nationalism, which was helped by the Christian power of Europe by their gold and steel. The Muslim Ottoman Empire was broken into pieces and the European powers distributed the fragments of the Empire among themselves. France gained control of Syria and Lebnon; England, in turn, occupied Iraq and Palestine. England announced its special mission of making Palestine as the National home for the Zionist Jews.

Napoleon, in his time, had suggested to the CZAR of Russia for a joint attack on the territories of the Sultan of Turkey and partition his land but the CZAR

advised Napoleon that Sultan was too strong for both of them to break and he might take over their own respective territories. What Napoleon and Czar together could not do to break the Turkish Empire, the language and culture had done it. Had the "Young Turks" given due regard to the Arab Language and Culture, neither the Turkish Empire would have been broken nor the Jews had their homeland. The constant humiliation of the Muslims in the hands of the Jews is before us.

CHAPTER V

The Constitutional Status of Bahawalpur

1. Equally vocal, in the annexed State of Bahawalpur, are the people belonging to another school of thought, who would rather base their arguments on the Constitutional Status of Bahawalpur, for its emergence as a separate Province.

2. These constitutionalists vehemently argue *Firstly* that the late Ruler of Bahawalpur had no authority whatsoever to sign the Merger Agreement dated 7-12-1954, which destroyed the Bahawalpur State and incorporated it, in the province of the West Pakistan, *Secondly* the Third Supplementary Instrument of Accession executed by the Ruler on 27-3-1952, and accepted by the Governor General on 11-4-1952, clearly provided that the constitution of Pakistan as framed by the constituent Assembly of Pakistan, which would include *the duly appointed Representative of the Bahawalpur State*, should be the constitution for the State of Bahawalpur, as for the other parts of Pakistan. But no representative of the State was a member of the constituent Assembly when "the Representatives of the States and Tribal Areas Act 1955" was passed on 10th July, 1955, and the constituent Assembly at that time was a body which did not contain any representative from the State of Bahawalpur. Therefore, the consti-

luent Assembly which passed subsequently an act called "Establishment of West Pakistan Act" on 3rd October, 1955, was invalid and in-operative as for Bahawalpur State was concerned, because it also did not contain the duly appointed representative from the Bahawalpur State. Finally they argue that now the advantage of the Merger Treaty dated 7-12-1954 is illegally being taken, which has lost its legal reason of existence as the result of a juridically relevant change of circumstances. Since all treaties, the obligation of which concern a certain object, become void through the extinction of such object, they therefore argue that the only object of the merger treaty was the establishment of the province of West Pakistan, which is now extinct, the treaty loses its binding force and is rendered void. The people of Bahawalpur has a right to liberate themselves from the obligation of the said treaty and to clamour for the restoration of their own separate administrative unit. To appreciate the arguments of this particular school of thought, it would be therefore necessary to analyse and trace the constitutional development with regard to the State and the events leading upto the establishment of the Province of West Pakistan, and its recent extinction.

3. Pakistan came into existence on 14th day of August, 1947 by virtue of Section 1 of the Indian Independence Act, 1947 and its extents and boundaries were described in Section 2 of the said Act which are (1) the territories of the Provinces of East Bengal and the Punjab according to the award of the boundary commission (2) the territories which included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan and (3) if by referendum North West Frontier Province wishes to join Pakistan, the entire territory of the said Province and if by referendum the District of Sylhet wishes to join East Bengal, the entire territory of the said District.

4. The Bahawalpur State was therefore not the part of Pakistan on the 14th day of August, 1947, instead by virtue of Section 7 (1)(b) of the Indian Independence Act, this State became full sovereign State and its people, a separate Nation, on the 14th August, 1947. Since the Bahawalpur State's relation with the British Crown rested on Paramountcy and treaty obligations which had collapsed on account of the Independence Act, therefore the suzerainty returned to the State on the 14th August, 1947 with full power to defend its own frontiers and maintain its External Affairs. It was no longer a vassal and had become a Suzerain and its Ruler assumed the title of Amir of Bahawalpur. The State now possessed the treaty making power with any Foreign Government.

5. It was in recognition of the full sovereignty and complete Independence of the Bahawalpur State, that international negotiations commenced between Dominions of Pakistan and the Bahawalpur State for an arrangement as to the line of action, to be taken in future with regard to certain matters and those negotiations therefore were conducted by the respective Head of the States. It was on 3rd October, 1947 when the Sovereign of Bahawalpur State, Sadiq Muhammed Abbasi made an International Agreement, with Pakistan, by signing the instrument of Accession and the other signatory was the Founder of Pakistan, Qaid-e-Azam, the Governor General of Pakistan who accepted it for Pakistan. By this Instrument, Bahawalpur joined Pakistan and became its Federated State, but its Amir clearly stated in the treaty that by retaining his own Sovereignty over the Bahawalpur State, he only surrendered to Pakistan his authority in respect of matters concerning (1) External Affairs, (2) the defence and (3) the communication of his State. This Instrument of Accession being an International treaty, was placed by the Minister for States and Frontier Regions to the

Constituent Assembly on 14th February, 1949 and was accordingly ratified.

6. A third Supplementary Instrument of Accession was executed by the Ruler on the 27th March, 1952 and accepted by the Governor General on the 11th April, 1952, Sub-clause (ii) of Clause I, which stated as under :-

“The Constitution of Pakistan as framed by the Constituent Assembly of Pakistan, which includes the duly appointed representative of this State, shall be the Constitution for the State of Bahawalpur as for the other parts of Pakistan and shall be enforced as such by me, my heirs and successors in accordance with the tenor of its provisions ; and that the provisions of the said Constitution shall, as from the date of its commencement in my State, supersede and abrogate all other Constitutional provisions inconsistent therewith which may be in force in this State immediately before that commencement.”

7. In pursuance of the third Supplementary Instrument of Accession dated 11th. April, 1952 and the subsequent Agreement dated 30-12-1948, under which the Bahawalpur State was grouped with the Khairpur State for purposes of representation in the Constituent Assembly of Pakistan. The Ruler of Bahawalpur nominated Molvi Fazal Hussain, as a representative, who took his seat in the Constituent Assembly on the 18th. January, 1950.

8. Later on the Ruler enacted for the State, the Interim Constitution Act 1952, wherein, inter alia a Legislative Assembly was brought into existence and only some matters

were retained as the special responsibility of the Ruler under Section 10 of the said Interim Constitution Act.

9. From the date of the promulgation of the above mentioned Constitution Act, the Ruler of the State of Bahawalpur and the Legislative Assembly of Bahawalpur constituted the sovereign body of the State of Bahawalpur and the unfettered powers of the Ruler became subject to the Constitution Act, 1952.

10. In pursuance of this constitution in 1952 elections were held in the State of Bahawalpur and 49 members were elected to the Legislative Assembly. The Ruler, thereafter, convened a special meeting of the Legislative Assembly by a special proclamation for the specific purpose of choosing a Representative to the Constituent Assembly of Pakistan, when Mr. Hassan Mehmood was elected to the then one and the only seat of Bahawalpur in the Constituent Assembly of Pakistan, who took his seat in the Assembly on the 11th. April, 1951.

11. That this Legislative Assembly functioned in terms of the Constitution for almost two years when on the 3rd. November, 1954, the Ruler of Bahawalpur issued a proclamation whereby he, in exercise of the powers reserved by S. 74 of the Interim Constitution Act, suspended the Legislative Assembly and assumed to himself the powers vested in the Legislative Assembly of the State of Bahawalpur.

12. There was no reason, whatsoever, for dismissing the Legislative Assembly and the constitutional machinery had not broken down. But this step was taken with an ulterior motive to curb opposition regarding the future merger of the State ; and this fact is further strengthened by the dismissal of the Constituent Assembly of Pakistan on 24th. October, 1954, a week before the suspension of the Legislative Assembly of Bahawalpur.

13. That after the Constituent Assembly of Pakistan had been dissolved on 24th October, 1954, by the Proclamation of the Governor General, subsequently a new Constituent Assembly of Pakistan was convened, in which Bahawalpur State was allocated two seats.

14. Without including any representative of the Bahawalpur State, as agreed in the third Instrument of Accession, the New Constituent Assembly enacted on 10th. July, 1955, The Representatives of States and Tribal Areas Act, 1955, wherein the Ruler of Bahawalpur State was authorised to nominate two members to the Constituent Assembly of Pakistan. The Ruler, in pursuance by notification No. 188 dated 14th July, 1955, nominated Syed Ahmed Nawaz Shah and Choudhary Abdus Salam as members of the Constituent Assembly to represent the State, who took their seats in the Assembly on 18th August, 1955. The Constitutionalsists therefore argue that the Representatives of States and Tribal Areas Act, 1955 was illegal, in-operative and in-effective as for as Bahawalpur State was concerned because at the time of enactment, the Constituent Assembly did not contain any representation from the State of Bahawalpur, as provided by the Third Instrument of Accession. They strongly urge that each provision in the Instrument of Accession has a force of law to the extent that the Supreme Court of India, by its judgement dated 15th. December, 1970, did not let Indian Government to violate one of its provisions i.e. abolishing the privy purses of the Rulers.

15. The nomination by the Ruler of Bahawalpur, under the said Act, was illegal and in-operative, therefore Syed Ahmed Nawaz Shah and Choudhary Abdus Salam were not the valid representatives of the State and could not take part in the deliberations and the proceedings of the Constituent Assembly to represent the Bahawalpur people.

16. While the Legislative Assembly of Bahawalpur was in existence, the Ruler of Bahawalpur had no authority as the Constitutional Head of the State or, acting under Section 74 of the Interim Constitution Act 1952, to nominate any member to the Constituent Assembly. He had surrendered part of his sovereignty by giving his people, a Franchise. The Ruler, for the said purpose, should have convened a special meeting of the Legislative Assembly of Bahawalpur by a special proclamation for the specific purpose of choosing the Representatives to the Constituent Assembly, as he did earlier when Mr. Hassan Mehmood was elected under a clear error, as to the existence of the Bahawalpur Legislative Assembly, as will be seen hereafter, the Representatives of States and Tribal Areas Act 1955, was enacted.

17. The Constituent Assembly of Pakistan, enacted thereafter, on 30th. September, 1955, the Establishment of West Pakistan Act, 1955, with Syed Ahmed Nawaz Shah and Choudhary Abdus Salam as the so called members. Since they were not the duly appointed representatives of the State, therefore the Constitutionalsists say that the Establishment of West Pakistan Act, 1955 was altogether in-operative, illegal and in-effective as for as Bahawalpur State was concerned and its merger in the Province of West Pakistan was altogether illegal.

18. Although, Choudhary Mohammed Ali's Government was sitting on the throat of the Ruler, forcing him to execute the Merger Agreement dated 7-12-1954 which was to wipe out the State of Bahawalpur from the map of the world, it was imperative for the Ruler, before signing the Merger Agreement, to make an Act or Ordinance, under Section 74 of the Interim Constitution Act, 1952 to the effect, that the State of Bahawalpur be merged in the province of West Pakistan. Since no such enactment was made,

therefore the Merger Agreement executed by the Ruler is void and illegal.

19. That in Sub-section 7 of Section 11 of the Establishment of West Pakistan Act, 1955 provided that on the appointment day i.e. 14th October, 1955, the Legislative Assemblies of the provinces of the Punjab, the North-West Frontier Province, Sind and the Legislative Assembly of the State of Khairpur should cease to exist, and the persons holding offices as Minister, parliamentary Secretary, Private Parliamentary Secretary or Speaker or Deputy Speaker of such Legislative Assembly shall cease to hold such offices. But no mention of the Legislative Assembly of Bahawalpur was made in the said Sub-section.

20. Besides the Constituent Assembly made provisions for the election of the members for the New Constituent Assembly of Pakistan, in the Establishment of West Pakistan Act 1955, by the Legislative Assembly of Khairpur. However, it failed to make any provisions of a similar nature in respect of the elections of members to the Constituent Assembly from the Bahawalpur State.

21. Subsequently it was discovered that the Legislative Assembly of Bahawalpur was not dissolved from the 14th day of October, 1955, but that it was only suspended from functioning under Section 74 of the Interim Constitution of Bahawalpur Act, 1952 and that it was very much in existence, therefore the Constituent Assembly of Pakistan on the 9th November, 1955, passed an Act, the Establishment of West Pakistan (Amendment) Act, 1955, which received the assent of the Governor General on the 18th November, 1955 and was published for general information in the Gazette extraordinary, when a right and power were given to the Bahawalpur Legislative Assembly to elect 23 members to the West Pakistan Assembly. The Bahawalpur Legislative Assembly was therefore convened after 21st November, 1955 which elected the 23 members accordingly.

22. The Constitutionalist therefore argue, that atleast upto 21st. November, 1955, much after the Establishment of the Province of West Pakistan, on the own admission of the constituent Assembly of Pakistan, the Legislative Assembly of Bahawalpur existed, with persons holding offices as Minister, Parliamentary Secretary, Private Parliamentary Secretary, Speaker or Deputy Speaker, although under suspension, contrary to the Merger Agreement. Either the Federation of Pakistan ought to have obtained a fresh merger agreement from the Ruler or the vote of Merger taken from the Bahawalpur Assembly.

23. They argue that although by this amendment the Constituent Assembly of Pakistan recognised the existence of Legislative Assembly of Bahawalpur and sought to give the Legislative Assembly of Bahawalpur a right to elect members to the West Pakistan Legislative Assembly in accordance with the procedure adopted in respect of the Provinces and the other State of Khairpur. But the same right was denied to the Legislative Assembly of Bahawalpur in the matter of choosing their representatives to the Constituent Assembly of Pakistan and for voting for the merger of Bahawalpur in the Unit of West Pakistan.

24. According to them the Ruler of Bahawalpur therefore had no authority in law :

- (a) To accede to and cause to be brought into existence the merger of the State of Bahawalpur along with all its Legislative, Judicial and Executive institutions in the Unit of West Pakistan and his act would be as absurd as the suggestion that the King of England should make a present of the United Kingdom to the King of Denmark while the Parliament was not in session.
- (b) Therefore the Governor General of Pakistan has no authority to act or assent the legislation in

respect of provisions which affect the citizens of the State of Bahawalpur.

25. The Constitutionlists further argue that the real consent on the part of the Representative of a State concluding a treaty is a condition of its validity. The Instrument of Accession and supplementary Instruments executed by the Amir of Bahawalpur were on account of the free accord. The unfortunate event was of the merger agreement executed by the Amir on 7-12-1954, which was clearly the result of coercion. OPPENHEIM, in his treatise on International Law, states that a treaty concluded as the result of intimidation or coercion exercised personally against the representatives is invalid. That the Amir of Bahawalpur signed the merger agreement under coercion and threat, is a well known fact which makes the merger agreement invalid. Whatever may be the factual position now, but if the treaties are considered sacred and binding on the Parties on account of moral and religious sentiments, the State of Bahawalpur continues to exist as a separate administrative unit.

26. Finally they argue that the new and unforeseen circumstance, of the extinction of the province of West Pakistan, has abrogated the impugned treaty of merger and now they have a Prima facie case on the basis of doctrine REBUS SIC STANTIBUS. If the signatory State had pre-seen the extinction of the Province of the West Pakistan, it would have said that the treaty ought to lapse and the original order restored. According to them the vital change of circumstances has made the treaty null and void.

DOCTRINE OF CLAUSULA REBUS SIC STANTIBUS

27. It means, that in every treaty, there is implied, a clause which provides that the treaty is to be binding only "so long as things stand as they are" and when a vital change of circumstances has occurred and the condition

of its validity has failed, the treaty ceases to be binding. France, on the basis of the doctrine, argued before the Permanent Court of International Justice, in the case of the "Free Zones of upper Savoy and the District of Gex", that the provisions made after the Napoleonic Wars for the withdrawal of the France customs line, some distance behind the FRANCO-SWISS boundary, should be held to have lapsed, owing to a change of circumstances. The change alleged was that the withdrawal of the customs line has made Geneva, then practically a free trade area together with the Free Zones an economic unit, the institution of Swiss Federal Customs, had destroyed the said Unit.

28. The Permanent Court of International Justice, while expressing its opinion in strong words, observed, "What puts an end to the treaty is the disappearance of the foundation upon which it rests or if we prefer to put the matter subjectively, the treaty is ended because we can infer from its terms that the parties, though they have not said expressly what was to happen in the events which had occurred, would, if they had pre-seen it, have said the treaty ought to lapse.

29. Finally, the constitutionalists argue that the merger of the Bahawalpur State was sought for the Establishment of the Province of West Pakistan and not as a subsequent gift to the Punjab. Since the province of West Pakistan had ceased to exist, the original order be restored in the form of a Bahawalpur Province, on the reasonings given by the International Court of Justice on 27th. July, 1955, in the case of Israel versus Bulgaria.

IN A CASE CONCERNING THE ACRIAL INCIDENT OF JULY 27TH, 1955. (ISRAEL VERSUS BULGARIA.)

30. The State of Israel, instituted proceedings before the International Court of Justice on 16th. October, 1957,

against the Government of the People's Republic of Bulgaria with regard to the destruction, on 27th. July, 1955, by the Bulgarian Anti-aircraft defence forces, of a Civil Aircraft belonging to EL AL Israel Airlines Ltd., Wherein, not one of the occupants of the aircraft, fiftyone Passengers and seven members of its crew, survived the disaster.

31. The Israel application invoked, Article 36 of the Statute of the International Court of Justice and the acceptance of the compulsory jurisdiction of the Court by Israel, on the one hand, in its declaration of 3rd. October, 1956, and by Bulgaria, on the other hand, on 29th. July, 1921.

32. The People's Republic of Bulgaria raised a preliminary objection that the Court is without jurisdiction and the application of the Israel is inadmissible because the Declaration and the treaty of 29th. July, 1921, by which the Kingdom of Bulgaria had accepted the compulsory jurisdiction of the permanent Court of Internal Justice, ceased to be in force, on the dissolution of the Permanent Court, pronounced by the Assembly of the League of Nations on 18th. April, 1946, and in its place, the present International Court of Justice, had been thereafter constituted. Therefore the Declaration and treaty made by Bulgaria was no longer in force.

33. The International Court of Justice vide its majority judgment dated 26th. May, 1959, held that the old Court and the acceptance of its compulsory jurisdiction having since disappeared, the International Court of Justice was without jurisdiction to take cognizance of the proceedings and the parties are freed from the obligation, in consequence of, the dissolution of the Permanent Court on 18th. April, 1946.

34. Mr. Zafarullah Khan, the nominated Judge, from Pakistan for the International Court of Justice and who was then the Vice President for the Court, appended

to the judgement of the Court, a statement of his own separate opinion, agreeing with the judgement of the Court.

35. The Constitutionlists, on the basis of this authority of the International Court of Justice, argue that the Bahawalpur Merger Agreement dated 17th December, 1954 was made, in contemplation of the proposed unit to be known, as the Province of West Pakistan, as the reading of the merger agreement enables us to come to that conclusion.

36. The dissolution of the Province of West Pakistan in 1970 by the order of the President of Pakistan, had therefore lapsed the Merger Agreement and the parties thereto are freed from its obligation. Bahawalpur State is no longer a merged state within the meaning of Section 87-A Civil Procedure Code, it is only an acceding State. Constitutionally, the States before partition were never part of the British India nor were their inhabitants, British subject. Even the Parliament of England had no power to legislate for the States or their People. The Government of India Act 1935, for the first time, provided for a constitutional relationship between the Indian States and British India on a Federal basis. The special feature of the scheme, was that, whereas in the case of Provinces, the accession to the Federation was to be automatic, but in the case of State, it was to be voluntary. A State was to be considered to have acceded to the Federation when its Ruler executed an instrument of accession and after it was accepted by His Majesty, the King of England. The States were expected to exceed to the Federation on limited number of subjects, retaining their Sovereignty in respect of other subjects. But the states were so jealous of their rights that it was not possible to persuade them, to join the Federation, therefore the Federal Part of the constitution visualised by the Government of India Act 1935, did not come into being.

37. The author of this book, as a Petitioner filed, Writ Petition No. 30 of 1955, on or about 12th. December 1955, in the High Court of West Pakistan at Lahore, against (a) the Late Ruler, (b) Province of West Pakistan, (c) Federation of Pakistan, (d) Syed Ahmad Nawaz Shah and (e) Choudhary Abdus Salam on the grounds stated in the Petition. (The full text of the Petition is given in the Schedule), wherein, it was prayed that :-

- (i) it be declared that the merger of the State of Bahawalpur with the Unit of West Pakistan was illegal, in-operative, null and void.
- (ii) Writ in the nature of Quo Warrants against the Ruler to show the authority in law to either accede to or cause to be brought into existence the merger of the State of Bahawalpur into the unit of West Pakistan.
- (iii) Writ in the nature of Quo Warrants against the Ruler to show authority to nominate the two members to the Constituent Assembly of Pakistan.
- (iv) Writ in the nature of Quo-Warrants against Syed Ahmed Nawaz Shah and Choudhary Abdus Salam to show their authority to represent the people of Bahawalpur.
- (v) Syed Ahmed Nawaz Shah and Choudhary Abdus Salam be prohibited from taking part and deliberating in the proceedings of the Constituent Assembly, by a Writ of Mandamus Prohibition or of like nature till duly elected by the Legislative Assembly of Bahawalpur State.

- (vi) The Federation of Pakistan be restrained from assenting to or making any laws in respect of the State of Bahawalpur.
- (vii) Writ of Mandamus or like nature be issued against the Ruler to restore the High Court of Bahawalpur and Judicial Committee of Bahawalpur.
- (viii) Writ of Mandamus or like nature be issued restraining the Province of West Pakistan and the Federation of Pakistan, from holding election in respect of areas comprised in the former State of Bahawalpur, for the Legislative Assembly of West Pakistan.

38. This Writ Petition coming up for hearing on 19th. January 1956, before a Division Bench comprising M. R. Kayani and C. M. Sharif JJ. was dismissed in Limini, the full text of the order is reproduced verbatim as under :-

O R D E R

There are two main points on which this Writ Petition is based. The first is whether the merger of Bahawalpur State with Pakistan is legal. The second is whether respondents Nos. 4 and 5, namely, Syed Ahmed Nawaz Shah and Chaudhary Abdus Salam, who were nominated to the Constituent Assembly by the Ruler, were validly nominated.

On the first point section 8 of the Interim Constitution Act, 1952 of the Government of Bahawalpur is a complete answer, it says in sub-section (2) that : "The Constitution of Pakistan which may be framed by the Constituent Assembly of Pakistan shall be the Constitution for the State as

for the other parts of Pakistan and shall be enforced by the Ruler for the time being, in accordance with the tenor of its provisions of the said Constitution shall, as from the date of its commencement supercede and abrogate all other constitutional provisions inconsistent therewith which may be in force in the State at that time." This means that any Constitution which may be framed by the Constituent Assembly of Pakistan after the Government of Bahawalpur Act of 1952, shall be treated as the Constitution for the Bahawalpur State. It has been argued, however that the Establishment of West Pakistan Act of 1955 by which the Bahawalpur State was merged into West Pakistan is only a fragment of the Constitution and not the whole Constitution of Pakistan and that, consequently as long as entire Constitution has not been made, Bahawalpur should be treated only as a federated State subject to the provisions of Section 6 of the Government of India Act. We have no doubt that the Establishment of West Pakistan Act is a part of the Constitution of Pakistan and we do not see how its application to Bahawalpur can be delayed until the rest of the Constitution is also framed.

As regards the second point, section 2 of the Representation of State and Tribal Areas Act passed by the Constituent Assembly in 1955 empowered the Ruler to nominate two members for the Constituent Assembly and those two members are respondents Nos. 4 and 5. It was argued, however, that the Act in question was illegal because at the time when it was enacted the Constituent Assembly did not include among its members any nominee of Bahawalpur State and that this was contrary to the provisions of the Supplementary Instrument Accession which was executed in 1952. This instrument was executed by the Ruler simultaneously with the enactment of the Government of Bahawalpur Constitution Act and the wording of Article 2 thereof are almost identical with the wording of sub-section (2) of section 8 of the Act, except that it makes a statement

of facts as regards a single representative of the State in the Constituent Assembly. It reads as follows :-

"I declare that the Constituent of Pakistan as framed by the Constituent Assembly, which includes the duly appointed representative of this State, shall be Constitution for the State of Bahawalpur....."

This does not mean that if the Constituent Assembly of Pakistan were to make a law in relation to Bahawalpur, it must include, among its members, a nominee from Bahawalpur State. The Constitution Act of Bahawalpur itself in section 8 (2) makes no mention of such a nominee and accepts the Constituent Assembly's decision without any condition.

We, therefore, dismiss this petition.

Sd/- M. R. Kayani,

Sd/- C. M. Sharif,

Judges.

Dated : 19th January, 1956.

Against the Judgement and order of M. R. Kayani and C.M. Sharif JJ., the Civil Petition for Special Leave to Appeal No. 5 of 1956, was filed by the author, in the Federal Court of Pakistan, and this Petition coming up for hearing on 3rd February, 1956 before Mohammed Munir, Chief Justice of the Federal Court and his companion Judge Mohd. Sharif, who were pleased to grant to him the Special Leave to Appeal, on the grounds stated in the Petition, with an observation that the Petition raised some points of great constitutional importance.

The order, word by word, is reproduced as under :-

“O R D E R

Muhammad Munir C. J.—The Petition raises some points of great constitutional importance. Leave allowed on the grounds stated in Petition.

M. Munir C.J.

Muhammed Sharif J.

Dated Lahore,
the 3rd February, 1956.”

39. This order of the Federal Court will remain always a monument for the constitutionalists and the people of Bahawalpur. By a subsequent order, the Federal Court ordered the author to deposit Rs. five thousand cash as the security for the appeal but on his inability to pay the said amount, the Federal Court was further pleased to reduce it to Rs. two thousand cash which was deposited in the Court by the author. Petition for special leave to appeal, was converted into a Constitutional Civil Appeal No. 15 of 1956 by the Federal Court, wherein (1) Federation of Pakistan, (2) the Province of West Pakistan, and (3) the author filed their respective concise statements, the full text of each is given in the Schedule.

40. The Constitution of the Islamic Republic of Pakistan 1956, was almost ready and the Constituent Assembly were to pass the said Constitution on 29th February, 1956 and 23rd March, 1956 was to be fixed under Article 224 (4) to be the Constitution day on which date, all the main provisions of the Constitution were to come into force, the Federal Court of Pakistan would cease to exist and instead the Supreme Court of Pakistan under Article 148 of Constitution was to replace, and the Chief Justice and the Judges of the Supreme Court, as a condition of the

exercise of their office were to take an Oath that, inter alia, they would preserve, protect and defend the constitution and laws of Pakistan. Besides the Article 1 of the Constitution, was to say that the Province of West Pakistan shall mean the Province of West Pakistan set up by the Establishment of West Pakistan Act 1955.

41. It was therefore clear that the new states of affairs which were about to appear, the above constitutional Civil Appeal No. 15 of 1956, would become wholly infractious and liable to summary dismissal with cost, unless the appeal was heard before 23rd March, 1956. The time margin was very small, as the appeal was admitted on the 3rd February, 1956.

42. Mr. D. N. PRITT, a Queen's Council from England, was engaged by the Province of the Punjab, to appear in the Federal Court of Pakistan, against Malik Khizar Hayat Khan Tiwana, in respect of canal matters and he arrived in Lahore, in February, 1956 to argue the matter. The author contacted him in Lahore in February, 1956 to argue the matter and showed him his appeal. Mr. Pritt became deeply interested in the Bahawalpur Appeal and the Constitutional questions involved therein. He suggested the via media that as soon as he was engaged by the author, he would file an application before the Federal Court for immediate hearing on the grounds that only the appeal would be infractious after sometime but also he had to go back to London, provided the author paid him his legal fee of Rs. ten thousand. Mr. Pritt was confident for immediate hearing of the appeal as well as succeeding in same. According to him, there was another identical matter for which he had accepted the brief during his stay at Lahore, pending in the Federal Court.

It was a strange coincident of hope and frustration, for the author, who made all humanly possible efforts to raise Rs. ten thousand for Mr. D.N. Pritt, but it was futile. Mr. Pritt finally argued the appeal of the Province of the Punjab on 14th March, 1956 and soon thereafter the appeal of Mr. Lundkhur who paid his fee and thereafter, the author had no arrangement to hold Mr. Pritt in Pakistan to argue his appeal.

44. The Constitution came into force on 23rd March, 1956. There were two alternatives for the author, either to withdraw his Appeal and obtain the refund of Rs. two thousand as the case security or let the appeal be argued with the consequences of the burden of the cost. He preferred the second alternative and finally the appeal came up for hearing on 11th October, 1956 before the full Bench now of the Supreme Court of Pakistan, which by its judgement dismissed the appeal with the cost. The full text of the judgement is reproduced as under :-

IN THE SUPREME COURT
(Appellate Jurisdiction)

PRESENT :

Mr. Justice Muhammad Munir, C.J.,
Mr. Justice M. Shahabuddin,
Mr. Justice A.R. Cornelius,
Mr. Justice Muhammad Sharif,
Mr. Justice Amiruddin Ahmad.

CIVIL APPEAL NO. 15 OF 1956

(On appeal from the judgement and Order of the High Court of West Pakistan, Lahore, dated the 19th January, 1955, in Writ Petition No. 30 of 1955.)

Riaz Hashmi, son of Dr. Fazal Hussain.

Appellant

Vs.

His Highness Alhaj Sadiq Muhammad V Abbasi & others.

Respondents.

For the appellant ... M/s. Khalid M. Ishaq and Riaz Hashmi, Advocates, Supreme Court, instructed by Mr. M. Siddiq, Attorney.

For the respondent ... Mr. Faiyaz Ali, Attorney-General, Pakistan (Mr. Abdul Haq, Advocate, Supreme Court with him) instructed by Mr. Iftikharuddin Ahmad, Attorney.

For the Province of West Pakistan ... Mr. S.A. Mahmud, Advocate, Supreme Court, instructed by Mr. Ijaz Ali, Attorney.

Date of hearing ... October 11, 1956.

JUDGEMENT

CORNELIUS J.—Leave to appeal was granted to the Petitioner, Mr. Riaz Hashmi, on the 3rd February, 1956. The principal questions raised on the appeal relate to :-

- (1) the integration on the 14th October, 1955 of the previous State of Bahawalpur in the new Province of West Pakistan, by an order of the Governor-General made under the Establishment of West Pakistan Act, 1955, and

- (2) the nomination, with effect from the 14th July, 1955, of two persons by the then Ruler of Bahawalpur State, to represent the said State in the Constituent Assembly of Pakistan.

On the 29th February, 1956, the Constituent Assembly passed the Constitution of the Islamic Republic of Pakistan, and the 23rd March, 1956 was fixed under Article 222 (4) to be the Constitution Day, on which date all the main provisions of the Constitution came into force, including :-

- (1) a provision in Article 1 (2) defining the territories of Pakistan as including the "territories of the Province(s) of West Pakistan", which Province of West Pakistan set up by the Establishment of West Pakistan Act, 1955";
- (2) a provision in Article 223 (1) that "until the first meeting to the National Assembly constituted in accordance with the provisions of the Constitution, the body functioning as the Constituent Assembly of Pakistan immediately before the Constitution Day shall, as from that day, be the National Assembly of Pakistan";
- (3) a provision establishing the Supreme Court of Pakistan in Article 148 : and
- (4) a provision in paragraph 6 of the Second Schedule, which is to be read with Article 222, requiring the Chief Justice and the Judges of the Supreme Court, as a condition of the exercise of their office to take an oath that, inter alia, they "will preserve, protect and defend the Constitution and laws of Pakistan."

In view of the new states of affairs thus brought about, the appeal becomes wholly infructuous and liable to summary dismissal. The petitioner is not entitled any longer to describe himself, as he does in the first paragraph of his petition to the High Court of West Pakistan as "a citizen of the sovereign state of Bahawalpur", for such a state has not existed since the 14th October, 1955 and the Constitution affirms that the territories formerly included in the state of that name are now territories of the Province of West Pakistan. In the face of that affirmation, this Court cannot entertain any challenge to the validity of the integration of the state of Bahawalpur in the Province of West Pakistan. The processes by which that result was achieved are of no significance whatsoever, in relation to the fact, which this Court is bound to assume and act upon, that as declared in the Constitution, the territories in question are now a part of the Province of West Pakistan.

As regards the nomination by the then Ruler of Bahawalpur State of two persons to represent the State in the Constituent Assembly, this was done in exercise of the power conferred upon him by an Act of the Constituent Assembly viz., the Representation of States and Tribal Areas Act, 1955 of which Section 2 is relevant. We assume that the persons nominated are now members of the National Assembly. It is clearly devoid of utility to challenge their membership of the Constituent Assembly which is now defunct. Moreover, by the Constituent Assembly (Proceedings and Privileges) Act, 1955, special provision was made in Section 9, for determination of questions raised regarding the membership of any member of the Constituent Assembly. The principle provisions made were :-

- (1) that the dispute should be raised by a petition to the Speaker ;
- (2) that such petition should be "received by the Speaker within a period of thirty days after

the publication of the result of the election in the official Gazette, or within a period of thirty days after the date of commencement of the Act (i.e. the 6th August, 1955), whichever period is the longer," and

- (3) that the petition should be enquired into by a Tribunal to be appointed by the Speaker, to consist of "a Chairman who shall be or has been a Judge of the Federal Court and of two other persons who shall be or have been Judges of a High Court", and that the report of the Tribunal should be given effect to, by an order of the Speaker, which should be final and not liable to be questioned in any Court.

It is clear that the jurisdiction to determine such disputes was taken away from the ordinary Courts, and that such disputes can only be determined in accordance with the conditions laid down in the Act aforementioned. We note that on the 12th December, 1955 when the petitioner filed his writ petition, the period of 30 days from the later date of commencement, viz., the 6th August, 1955 had long since expired. The exclusive remedy provided by law in relation to the matter of the validity of the nomination of the two representatives in question was barred by time when the writ petition was filed.

In these circumstances, the appeal is liable to be dismissed. The appellants had ample time in which to ascertain that the passing of the new Constitution had the effect of non-suiting them in the appeal, but took no advantage of it. They have on the contrary pressed their appeal through Counsel on the untenable ground that the territories of the one-time state of Bahawalpur are only *partially* subject to

the Constitution and laws of Pakistan. In the circumstances, we cannot accede to his request that he should not be mulcted in costs.

The appeal is hereby dismissed with costs.

Sd/- M. Munir, C.J.
Sd/- M. Shahab-ud-din, J.
Sd/- A. R. Cernelius J.
Sd/- Muhammad Sharif, J.
Sd/- A. D. Ahmad, J.

Lahore.

Dated October 11, 1956.

NOT APPROVED FOR REPORTING.

45. All those points of great constitutional importance, earlier observed by the Federal Court on 3rd February, 1956, lay buried, under the Constitution of the Islamic Republic of Pakistan 1956, which was abrogated after two years in 1958.

CHAPTER VI

The Arguments of the Democrats

1. One cannot live in Bahawalpur for long, without being conscious, that it has three whirlpools or centres of political activity focusing on one particular problem. The third school of thought, by far the most important, in that of the "Democrats" who are seriously opposed to the Linguistic principle, because they apprehend that the political centre of gravity will shift from Bahawalpur to Multan in case a linguistic province is made, as the Multan District has numerically more population than the entire division of Bahawalpur. The Democrats therefore emphasize, only on the wishes of the people, and argue if the period of colonialism had ended, the present phase of Neo-colonialism will also disappear. The present oppression is only a passing phase and no territory has ever remained under forced condition or against the wishes of its inhabitants. According to them, power politics have always faded away, before ideologies and the time is not far off when the Neo-colonialism will also discredit itself. According to them, the present arrangement will on the contrary bring sharp and deep contradiction between the victorious and the vanquished territories, eventually leading to the disintegration of the present arrangement, into the original order.

2. They argue that even the colonialists like French, Britishers and Americans realised, because of the Second

World War, that they could no longer exploit their colonies and their peoples and from a very early stage in the War, the problem of resettlement of the World, had been considered by the Allies and in consequent, Churchill - Roosevelt declaration, was made in August 1941, more generally known at the Atlantic Charter, which set forth certain common principles in the National policies of their respective countries on which they base their hopes for a better future of the world. These principles laid down in the Charter, were that no territorial change were to be made, without the freely expressed wishes of the peoples concerned, and the recognition of the right of all people to choose their own form of Government. Exactly on the same principles, Pakistan Peoples are supporting the cause of Kashmir peoples and for that reason Article 203, a specific provision was inserted, in the Constitution of the Islamic Republic of Pakistan 1956, which read "When the People of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and said State shall be determined in accordance with the wishes of the People of that State".

3. They further argue that on these principles the basic Principle Committee was formed by the First Constituent Assembly which in turn made "States Sub-Committee" to determine what status should be given to the Federated States. The question which was referred to this Sub-Committee was whether the States should continue to retain the status on account of (i) Instruments of Accessions and (ii) the Government of India Act, or the States should be made the Provinces of Pakistan like other Provinces. This Sub-Committee was to ascertain the wishes of the peoples residing in the States, but unfortunately the results of the Elections in the East Bengal unsaddled the regime in the power and the whole situation changed. To answer back the election results of the Bengal, the civil servants belonging to the Province of Punjab seriously

thought of the Establishment of the Province of Pakistan, which was therefore made on 14th. October, 1955. The Establishment of West Pakistan Act, 1955, gave on the contrary reverse answer for which the Sub-Committee was made and integrated all the Provinces and the States in the Province of West Pakistan.

4. They go further in the argument and say, since the one Unit was based, against the wishes of the people, its makers were forced to renunciate it, *Firstly* The Muslim League Working Committee at its meeting held at Lahore on the 7th. March, 1957, resolved that "After a full consideration of the present situation in West Pakistan, the Pakistan Muslim League Working Committee was convinced that the 'One Unit' scheme of West Pakistan has failed completely and that Muslim League therefore could not support it. The Muslim League, as an organisation of the people must give its immediate thought to the establishment of a system which was acceptable to and had the full approval of the people of the different regions." *Secondly* On 15th. September, 1957, the Republican Party and the National Awami Party in the West Pakistan made a written agreement for giving full support in the West Pakistan Assembly as well as in the Parliament for the undoing the one Unit and setting up in its place Provinces on a linguistic and cultural basis. The signatories to the agreement included Sardar Abdul Rashid, then the Chief Minister of West Pakistan; Malik Feroz Khan Noon, the Leader of the Central Parliamentary Board; Mian Iftikharuddin; Mr. G. M. Syed and Khan Ghaffar Khan. Two days later on 17-9-1957 the following resolution moved by Mr. G. M. Bhurgari was carried in the West Pakistan Legislative Assembly :

"This Assembly recommends to the Provincial Government to Communicate the views of this Assembly, to the Parliament that Province of West Pakistan be re-constituted as a sub-

Federation with four or more fully autonomous Provinces."

5. According to them, the One Unit would have been broken long since, but for the proclamation of the Martial Law in October, 1958 by Iskandar Mirza. In this proclamation, dated 7th. October, 1958 made by him, as the President of Pakistan, he said :-

"We hear threats and cries of civil disobedience in order to retain private volunteer organisations *and to break up One Unit*. These disruptive tendencies are a good indication of their patriotism and the length upto which politicians and adventurers are prepared to go to achieve their parochial aims."

He further Said :-

"My appraisal of the internal situation has led me to believe that a vast majority of the people no longer have any confidence in the present system of Government and are getting more and more disillusioned and disappointed and are becoming dangerously resentful of the manner in which they are exploited. Their resentment and bitterness are justifiable. The leaders have not been able to render them the service they deserve and have failed to prove themselves worthy of the confidence the masses had reposed in them."

And :-

"The Constitution which was brought into being on 23rd. March 1956, after so many tribulations, is unworkable. It is full of dangerous compromises that Pakistan will soon disintegrate internally *if the inherent malaise is not removed*. To rectify them, the country

must first be taken to sanity by a peaceful revolution. Then, it is my intention to collect a number of patriotic persons to examine our problems in the political field and devise a constitution more suitable to the genius of the Muslim people. When it is ready and at the appropriate time, it will be submitted to the *referendum* of the people."

6. They say, that for 10 long years, Baluchi, Sindhi, Bahawalpuri and the North West Frontier people who did not exist except as a cultural unit, by the establishment of West Pakistan, popularly known as "One Unit", vainly struggled for their emancipation and their invader would hardly have persisted in face of their protest, from exploitation, when President Yahya Khan came to the rescue and by one stroke of the pen broke One Unit by enacting the Province of West Pakistan (Dissolution) Order 1970, but the dissolution order dismayed Bahawalpur people when they found their territory that was thoroughly Bahawalpuri in origin and character, was annexed to the Punjab. These people rejected the annexation by violent demonstrations claiming separate province for them. In particular the locals, the original residents and the sons of the soils were emotionally disturbed. In the name of law and order, the administration used bullets to control the passions and arrested the workers and leaders, but this was no solution to the problem.

7. Therefore they explain, if the Union of Rhodesia and Nyasaland, whipped together at such great efforts by the British Imperialism, had disintegrated and if the unified province of West Pakistan, maintained so cruelly, had been dissolved, so will be the merger of Bahawalpur with the Punjab. Finally they argue, if the change was really to be made, the wishes of Bahawalpur people should have been ascertained, otherwise the examples of Congo, Nigeria and Tanganyika are before us, where the wishes of the people

were savagely crushed, which brought chaos and Fratricidal wars to the said countries, whereas, the countries like Canada, on the other hand, which treated the wishes of the people with understanding and respect, had brought world's pleasure and happiness for its inhabitants. It is therefore necessary to have a look in the past history of those four countries to understand the reasoning of the Democrats.

C O N G O

(Kinshana)

8. Before Belgium was compelled to recognise Congo's independence on 20th June, 1960, the King and the Parliament of Belgium ruled the Congo by a Colonial Charter dated 18th October, 1908. After the independence, the first national Government was headed by PATRICE LUMUMBA, the leader of the Progressive National Congo Movement Party. In order to introduce the unitarian system in the Congo, Lumumba Government announced that it would lose no time to demolish the Provinces and the Princely State. Probably he was inspired by the establishment of the Province of West Pakistan which came into existence in 1955 and LUMUMBA began putting his ideas also into action, which placed Federalists and the Unitarians into a fundamental contradiction. MOISE TSHOMBE, the head of KATANGA Province, was forced to proclaim its independence. This was followed by another province of KASAI. The people of KASAI not only proclaimed independence but started killing, one by one, Lumumba's men. Thousands of people were killed on account of LUMUMBA'S action in a pitch battle, by both the groups, on the road side. The Lumumba Government headed towards complete collapse and was forced to send a formal request to United Nations to send its forces, to help him maintain law and order in Congo. The combined forces of the United Nations were sent in Congo by the

decision of the Security Council dated 4th July, 1960, even then a Military coup headed by Colonel MOBUTU over-threw Lumumba and his Government. In January, 1961, PATRICE LUMUMBA was killed by his own people and the United Nations' forces also could not save his life.

MOBUTU Government divided the country according to the wishes of the people into 8 provinces with full autonomy and in 1964 the United Nations' Forces withdrew from the Congo and the country now is no longer linked in the public mind with any kind of disorder. Congo is once again a United country without U.N. forces and each province is governed by its own people, making its own distinctive contribution to the progress of Congo.

N I G E R I A

9. Nigeria, a country in the West Central Africa, gained its independence in October, 1960. The Commander-in-Chief of the Armed Forces, Major General AGUISI IRONSI, by a military coup in 1966, became the head of the State. He had been dreaming to make Nigeria a Unitary Republic by doing away its provinces and states. As soon as he came into power, he abolished all the provinces and the Princely States by a decree of the Supreme Military Council, made Public on 24th May, 1966. The Northern Region, which is predominantly populated by the Muslims, was the first one to show its emotion of protest. The peoples of the princely states and the provinces in the Northern Region convened a joint meeting and unanimously demanded the restoration of their respective states and provinces or in the alternative to hold the Referendum within their territories to ascertain their wishes but the IRONSI Government crushed the movement in the Northern Region by force.

The Eastern Nigeria, mostly populated by the Christians, watched the events in the northern part painfully and went to the path of separation by proclaiming the Republic of Biafra. The hostilities between the army of the Federal Government and the troops of the Eastern Nigeria began in the summer of 1967, embroiling the country in a cruel war. Millions of people were killed in Nigeria on account of the ambition of AGUISI IRONSI to dissolve its Provinces and the States. The Major General AGUISI IRONSI had been overthrown and the Federal Government, as a result of hard fought battle, had gained control over the entire part of the Eastern Nigeria in 1970, but the prediction of Mr. Richard, who was engaged to draft the New Constitution for Nigeria, came very true when he said if the Regionalisation principles were not adopted in Nigeria, that would necessarily be followed by "Chaos" and "Fratricidal War".

T A N G A N Y I K A

10. Tanganyika, a former country in the East Africa, was proclaimed a Republic on 9th December, 1962. Mr. JULIUS NYERERE was elected the president of the Republic. Under the guise of abolishing Tribalism and to unite the people of different ethnic groups, measures were taken by him. In February, 1963 all the nine Provinces were abolished and the Rulers of the States and the Tribal Chiefs were deprived of all the administrative and the legal powers. The change brought separatist tendencies and lack of unity was exhibited by its people. Broad sections of population rose up to fight the regime, but Mr. Julius Nyerere was not prepared to restore the provinces, instead he was forced to travel on the road to communism. Under his revised constitution, Tanganyika was proclaimed a One Party State and the other political parties were declared as illegal and their leaders imprisoned. The One Party Regime maintained the consolidated one unit of Tanganyika

and did not let its people have their provinces. The eventual result was that Tanganyika disappeared from the map of the world and merged into another Republic.

PRINCE EDWARD ISLAND

11. In Canada, there is a province called Qubec which has an area far bigger than the combined areas of East and West Pakistan, and otherwise also most of its provinces are larger than East or West Pakistan taken alone. There exists also a separate province in Canada, by the name of Prince Edward Island, with an area of 2,184 square miles and a population of 98,000. It is rightly nicknamed as a Match Box Province. Since its inhabitants were insistant to have a separate province for themselves, Canada attached great, indeed primary, importance to the wishes of its inhabitants and made it a separate province.

This Policy of Canada impressed its neighbouring country, New Foundland, with an area of 156,185 square miles and population 415,000, to the extent that it showed a desire to be a province of Canada. New Foundland, on its own, surrendered its sovereignty in 1939 and became a part of Canada, as a separate province.

CHAPTER VII

“THE STATES”

1. Before the Partition of the sub-continent into India and Pakistan, the term ‘STATE’ meant a Political Community occupying a territory of defined boundries in India and subject to a single Ruler, who enjoyed Internal sovereignty within his state, duly recognised by the British Crown. There were more than 560 States; about Forty out of those States had treaty relations with the British Crown, having a Paramount Power; whereas large numbers of other states had some form of engagements or sanads and the remaining enjoyed in one or the other from recognition of their status by the British Crown. The treaties, engagements, and sanads covered a wide field, and the rights and obligations of the states arising out of those agreements varied from State to State.

2. The rights that the British Crown, as a Paramount Power, exercised in relation to States covered, authority in matters external as well as internal. The State had no international personality, the Paramount Power had exclusive authority to make peace or war or to negotiate or communicate with Foreign States, but in the matter of internal administration, most of the Rulers had complete freedom. The Paramount Power had also the right of inter-vention in internal affairs of the States in exceptional

circumstances, or for giving effect to international commitments.

3. As is known to us, that the East India Company entered into treaties with the Indian States in the early stages aiming at no more than securing for the Company, a privileged position in trade against its French and Dutch rivals. For the first time the Parliament of England asserted its authority and control over the East India Company's activities both in India and in England by the Regulating Act of 1773, under which the Governor of Bengal became the Governor-General in Council with a certain amount of control over the Presidencies of Bombay and Madras.

4. The Marquis of Wellesley who came to India thereafter in 1798, as the Governor-General, took stock of the situation and was convinced that the time was then set for the British Crown to become the Paramount Power. He therefore made a system under which no Indian States, which had accepted subsidiary alliance with the British, could make any war or carry on negotiations with another State without the Company's knowledge and consent. It was in his regime that the British Dominion in India expanded considerably. He had practically destroyed the French influence in India and brought many States under the subsidiary alliance, the notable instance being Hyderabad Daccan, Travancore, Mysore, Baroda and Gwalior.

5. Under this system of subsidiary alliance the bigger States were to maintain armies commanded by the British Officers and their Rulers were to part with certain territories for the upkeep of these forces. In return the East India Company was to protect them, against external aggression and internal rebellion. The territories so ceded by the States became eventually Provinces or the Part of Provinces. By the East India Company, a British resident was also

installed in every State that accepted the subsidiary alliance. There is no Province now in the West Pakistan, which was not under a Ruler, or a part of the former states.

6. The Marquis of Hastings who was made a Governor-General thereafter in 1813 crushed the Pinderis and finally broke the Marhatta Power and carried the spread of the British Dominion over Northern and Central India to a Stage, by the time he left the country in 1823, the British Empire in India outside the Punjab and Sind was under the Company's control. It is remarkable to note that the territories which Hastings had not captured so far, now are the boundaries of the West Pakistan. Lord Dalhousi who succeeded Hastings, acquired vast territories for the Company by conquering the Punjab and pushing the frontiers to the natural limits of India, i.e. the base of the mountains of Afghanistan.

7. The influence of the Company over the internal administration of the States, rapidly increased during the period following the retirement of Lord Hastings. Residents became gradually transferred into diplomatic agents representing a foreign power and soon they became executive of the State and Controlling Officers on behalf of a Superior Power. The Charter of 1833, abolished the Company's trading activities and the Company assumed the functions of the Government of India, for the first time.

8. The Plunder of the resources were to the extent that a British district Tax inspector of the East India Company in 1823 received Rupees 1,650 as a pay per month plus extra bonus related to the total Taxes collected ranging from Rupees 6000 to 27000 a year (or Rupees 500 to 2250 as bonus per month) whereas an Indian clerk, on the other hand, who did the actual Tax collecting was only paid Rs. 3/- per month. Each Director on the East India

Company's Board of Directors received £ 14,000 annually. Two thousand shareholders in the Company possessing at least £ 1,000 worth of share each, elected the Company's 24 directors. Elected so "democratically" these shareholder Rulers of the Indian people, enjoyed, in addition to a handsome salary, also the right to recommend candidates to all civil and military officers to be appointed by the Governor-General in India and the Governors of the Presidencies. The corruption reigned from top to bottom in the administration of the Company. The taxes were extorted ruthlessly by terrorising the population. Karl Marx rightly said about the East India Company, "Merchant's Capital when it holds a position of dominance, stands every where for a system of robbery". Millions of Pounds every year were drained from India to England and the following is the statistics for the average annual out-flow of Indian wealth to the Great Britain :-

1835—1839	£	5,350,000
1840—1844	£	5,930,000
1845—1849	£	7,760,000
1850—1854	£	7,460,000
1855—1859	£	7,730,000
1860—1864	£	17,300,000
1865—1869	£	24,600,000
1870—1872	£	27,400,000

Whereas according to the East India Company's financial accounts for 1849-52, only £ 166,300 out of its total income for that period of £ 19,800,000 or 0.8 per cent was allocated for India's need, The result of this monstrous crime was a mass famine in the 18th Century. The famines

swept the following areas:- Bombay Province in 1803-04, 1813 and 1824-25; Madras in 1807, 1833 and 1854; the North Western Provinces on four occasions in the period from 1803 to 1837, Gujrat in 1833; Rajputana, Delhi and Central India in 1832-34.

9. Shareholders of the East India Company still wanted more and more dividends, but there was no more blood in the veins of the Indians who were subjected to the Company's Rule. The more blood would only come by acquiring fresh territories. Therefore the predatory war against the State of Mysore was waged by the Company in 1799 on the ground that Tipoo Sultan was harbouring "French Agents". The war against the Marhattas in 1818 was declared in peace time, on the ground that it was defensive. The State of Oudh was taken over by the Company because its Nawab was incompetent and had administered his territory badly. The Punjab was occupied by the Company because there was anarchy within its Borders. The Sind was taken over because the Company apprehended that the Russians might take it over or the Afghan might annex it. Since Burma showed the British authorities inadequate respect, she too had to be annexed for the sake of British Prestige.

10. Besides East India Company indulged into a slave trade to get more money. The shipments of millions of Indians to American Plantations and the death of a still greater number of people as a result of monstrous slave hunt, prepared a strong ground for the discontent. The slave trade was to that extent, that in British Guiana, a country in South America, today the Hindu Population is more than the locals. Doctor Jagan, a Hindu was the Prime Minister of the British Guiana only two years ago before the Guiana Parliament was dissolved. The slave hunt by the Britishers were exclusively in their Presidencies

and not a single subject of a native State was taken into slavery.

11. The States which escaped annexation so far, knew that sooner or later, they too would be absorbed and their subjects would be a merchandise for Slave Caravans bound for America, so they jointly conspired against the East India Company, which eventually resulted into a National uprising. The Patriotic struggle for freedom, eventually turned into a War of Independence. when the Indian Sepoy regiments mutinied and the Britishers were defeated on many fronts, and in fact were pushed away from Delhi. The East India Company started to crumble and might had led to the complete banishment of British from the Inida, but in the words of COUPLAND, in his book '*India*' PP. 38-39 and in the words of BROCK, in his book '*Britain and Dominion*', it was the Punjab Forces which crushed the Sepoy Mutiny and had helped the Britishers to recapture Delhi. The history of the sub-continent would have been altogether different if the Punjabi speaking people had not helped the Britishers to stay till 1947.

12. After the crushing of the mutiny, the British Government in England was forced to put the East India Company into liquidation and in 1858, both in England and India, the Company was wound up by paying enormous compensation to the share holders out of the Indian budget, and thereafter, the British Parliament made an act of 1858 entitled "An Act for the Better Government of India" which provided by the 67th section that "All treaties made by the Company with the states shall be binding upon Her Majesty". In her subsequent Proclamation the Queen Victoria made it clear that her Majesty's Government would respect the territorial limits of the Native Princes in India and also their rights, dignities and honour.

13. Lord Canning who was the viceroy after the Queen's Proclamation, carried this new Policy of the Queen to its logical conclusion, by recommending that the integrity of the States should be preserved by perpetuating the Rules of the Princes, whose Power to adopt heirs should be recognised, as earlier those Rulers who died without heirs, their states were automatically absorbed in the British Empire. The Secretary of State for India agreed to this recommendation and *SANADS* were granted to the Rulers, under which in the event of failure of the natural heirs, they were authorised to adopt their successors according to their law and custom. These Sanads were intended to remove mistrust and suspicion and bring the native sovereigns to the Paramount Power. The new policy was to punish the Ruler for extreme misgovernment and if necessary to depose him, but not to annex his state for misdeeds. The Indian states thus became part and parcel of British Empire in India. In the words of Lord Canning:-

"The territories under the sovereignty of the Crown became alone an important and as integral a part of India as territories under its direct dominion. Together they form one direct care and the political system which the Moghuls had not completed, and the Marhattas never contemplated, is now an established fact of history."

14. States and Provinces became now the two separate wives of the British Dominion. The same head of the British Dominion was called Viceroy for the States and the Governor-General for the Provinces and the Federation. But both the wives retained distinct Political individuality and by their very nature, they could not unite to form one Personality.

15. The next fifty years were occupied with the task of evolving a machinery for controlling the States. A

Political department was set up under the direct charge of the Governor - General, who was to have a dual charge of a Viceroy. The political department had at its disposal a service known as the Indian Political service manned by officers taken from the India Civil Service and the Army. It had a police force which was maintained partly by the Revenues of the Central Government and partly by contributions made by the States. The Political department had Residents and Political Agents in all important States and groups of States. The Secretary of State kept a close control over the activities of the Political Department, mainly because of the interest of the Crown in matters affecting the rights and Privileges of the Rulers.

16. Constitutionally the States were not part of the British India, nor were their inhabitants British subjects. Parliament of England had also no power to legislate for the States or their people. The Crown's relationship with Indian States was conducted by the viceroy who was in-charge of the Political department, he tended in practice to leave States affairs, practically in the hands of the Political department, which gradually assumed the position of a Government within a Government.

17. With the building up of a strong Political department, the Crown started asserting rights never claimed by the East India Company. The most outstanding example of this assertion was the prerogative assumed by the Crown, for recognising succession in the case of natural heirs. The first ruling in this behalf was laid down by the Crown, in 1884, in a letter addressed to the Chief Commissioner of the Central Provinces, in which it was stated that succession to a native State was invalid until it received in some form the sanction of the British authority. In the view of the Secretary of State expressed in 1891, it was admittedly the right and duty of the British Crown to settle succession in the protected States in India. The Rulers thereafter

did not inherit their thrones as of right but as a gift from the Paramount Power.

18. Mr. Montagu, the Secretary of State for India, in 1917 made for the first time, an attempt for closer co-ordination between the Provinces and the States within the British India. He along with Viceroy Lord Chelmsford Published a joint report on Constitutional Reforms which was the first major investigation into the relations of the States with rest of the British India. The authors of the Report visualised that the Provinces would ultimately become self-governing units with a common Central Government, which would deal solely with matters of common concern to all of them. But with regard the States, the authors of the Report thought that in the first instance, all the Rulers of the States should be brought on a common Platform for joint consultation and for furtherence of their common interest. There was a conference of Ruling princes and chiefs in 1919 which recommended that the Rulers of States having full and unrestricted Powers of Civil and Criminal jurisdiction in their states, should be called Ssovereign Princes as against those who lacked such powers. This however was not favoured by the British Government.

19. But in 1921 by a Royal Proclamation, the Chamber of Princes was brought into existance so that the Viceroy would take Counsel of the Chamber in the matters relating to the territories of the States and also in matter which effected these territories jointly with the British India. The Chamber of Princes, unlike the Central Government, would have no concern in the internal affairs of individual States and their respective freedom of action would in no way be disturbed.

20. Lord IRWIN, thereafter the Viceroy in India, announced in March 1927 for the appointment of a statutory commission to enquire into the working of the Government of India Act, 1919 and to make recommendations regarding further constitutional advancement. The Ruler of the States through their Chamber of Princes demanded an impartial enquiry into the whole relationship between themselves and the Paramount Power. The Secretary of State appointed a Committee of three members, Presided by Sir HARCOTBUTLER to enquire into the relationship between the States and the Paramount Power and to suggest means for the more satisfactory adjustment of the existing economic relations between the States and the British India.

21. On behalf of the States it was contended before the Committee that all original sovereign powers except those which had been transferred with their consent to the Crown were still possessed by them and such transfers could be effected only by the consent of the States and that the paramouncy of the British Crown was limited to certain matters i.e. those relating to foreign affairs and external and internal security. The Committee was not prepared to accept this and held that none of the States ever had any international status. The Committee refused to define paramouncy but asserted that paramouncy must remain paramount. It must fulfil its obligations defining or adopting itself according to the shifting necessities of the time and the progressive development of the States. They however observed that if any Government in the nature of a Dominion Government should be constituted in British India such Government could clearly be a new Government resting on a new written Constitution. The Committee noted the grave apprehension of the Princes on this score and recorded a strong opinion that in view of the historical nature of the relationship of the paramount power and the Princes the latter should not be transferred without their agreement

to a relationship with a new Government in British India responsible to an Indian Legislature. This really laid the foundation of a policy whereby in later years a wedge was effectively driven between the States and the British India.

22. The Rulers were certainly disappointed with the findings of the Butler Committee with regard to their main hopes of being freed from the unfettered discretion of the Political Department to intervene in their internal affairs. The Congress opinion in the country viewed the recommendations of the Butler Committee with grave apprehension and emphatic protests were entered in the report of a Committee presided over by Pandit Motilal Nehru and an All Parties Conference was arranged in 1928 to frame a Dominion Constitution for India, which was boycotted by the Quaid-e-Azam, who on the other hand placed his Fourteen Points before the country, one of the point was that the States were at liberty to decide their own fate. The Viceroy Lord Irwin who had conferred with the British Government in 1929 made an official pronouncement on his return to India to the effect that the natural issue of India's constitutional progress was the attainment of Dominion Status. He also announced that the British Government has accepted the suggestion of Sir John Simon for a Round Table Conference. There was a series of these conferences which debated on many and various points including Federation of the States with the Provinces of British India.

23. Then came the Government of India Act, 1935, which provided for a constitutional relationship between the Indian States and the British India on a federal basis. A special feature of the scheme was that whereas in the case of Provinces accession to the Federation was to be automatic but in the case of the States it was to be voluntary. A

state was to be considered to have acceded when its Ruler executed an Instrument of Accession and after it was accepted by His Majesty the King of England. The Government of India Act, 1935, other than the part relating to Federation, came into force on the 1st April 1937. From that date the functions of the Crown in the relations with the States were entrusted to the Crown Representative; those functions included negotiations with the Rulers after accession to the Federation. The Federation however never took shape.

24. An important announcement in the constitutional set up of India which came after the Second World War had broken out was the Draft Declaration known as Cripp's Plan. This accepted the principle of self-determination but it contained numerous pitfalls which imperilled the future of India. The Mission failed but its failure gave a new turn to India's political struggle. In spite of the deepening crisis of war no further serious effort was made to resolve the political deadlock in India until the Simla Conference of 1945. This also proved abortive. After the assumption of power by the Labour Government in England a Parliamentary Delegation visited India and later the Secretary of State announced the Government's decision to send a delegation of three Cabinet Ministers to India. In May 1946, the Cabinet Mission issued the Memorandum, dated 12th May 1946, in regard to States' treaties and paramountcy; it affirmed that the rights of the States which flowed from the relationship of the Crown would no longer exist and that the rights surrendered by the States to the paramount power would revert to the States.

25. Thereafter the Viceroy Lord Mountbatten made it clear that the British Government had resolved to transfer power by June 1948 and a solution had to be found in a

few months time. On June 3rd 1947, he announced that His Majesty's Government would be prepared to relinquish power to two Governments of India and Pakistan on the basis of Dominion Status and this relinquishment of power would take place much earlier than June, 1948. In regard to States the plan laid down that the policy of His Majesty's Government towards the Indian States contained in the Cabinet Mission Memorandum of May, 1946 remained unchanged. At a Press Conference held by him Lord Mountbatten gave it out that the date of transfer of power would be about 16th August, 1947.

26. The Indian Independence Act enacted for the purpose of giving effect to the plan envisaged as above received the Royal Assent on 18th July, 1947. It provided for the setting up of two independent Dominions as and from the 15th August, 1947. Section 2 of the Act defined what the territories of the two Dominions would be. Section 6 provided that the Legislature of each of the new Dominions would have power to make laws for that Dominion. Under Section 7(1) the suzerainty of His Majesty over the Indian States would lapse and with it all treaties and agreements in force at the date of the passing of the Act between His Majesty and the Rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at the date towards Indian States or the Rulers thereof. Under clause (c) any treaties or agreements in force at the date of passing of this Act between His Majesty and any person having authority in the tribal areas were also to lapse. Section 9 empowered the Governor-General to promulgate orders for bringing the provisions of the Act into effective operation, for dividing between the new Dominions, and between the new Provinces to be constituted under the Act, the powers, rights, property, duties and

liabilities of the Governor-General in Council etc. Even after the passing of the Act, Lord Mountbatten was debating the States' problems with the political leaders. A draft Instrument of Accession was prepared in the States Department which took three forms according to the existing status and powers of the various States. By these Instrument of Accession the States, were to accede to the Dominion of India or Pakistan on the three subjects, Defence, External Affairs and Communications and their content being as defined in Schedule VII of the Government of India Act, 1935.

27. Since the Paramountcy lapsed on August 15, 1947 by virtue of Indian Independence Act consequently all the Rulers became absolute sovereign. The then Federal Court of Pakistan, now Supreme Court of Pakistan, had defined the Amir of Bahawalpur, as the executive and Judicial Sovereign of his territory after the lapse of Paramountcy in PLD 1956 Federal Court 101 (Baggu Versus State). Likewise the Supreme Court of India, in AIR 1961 Supreme Court 298, had defined the Maharaja of Gwalior as an absolute Monarch without having any constitutional limitation upon his authority. According to the said Indian citation, the Maharaja after the lapse was the Supreme Judiciary, and also the Supreme head of the executive, and all his orders, however issued had the force of law, and governed and regulated the affairs of his state, including the right of its citizen.

28. These Rulers were free to accede, to either of the two Dominion, or to remain Independent like Nizam of Hyderabad. The first state to accede to Pakistan was the Bahawalpur State. Mr. Justice Shabir Ahmed had observed in his Judgment reported in PLD 1958 Lahore 747 at Page 810, that the documentary evidence before him made

it crystal clear, that the accession of Bahawalpur, to Pakistan was decided upon at as early a date as possible after the 9th September, 1947 on which date the Pakistan Cabinet had passed a resolution that steps with regard to the accession of the State should be taken. It will be useful here to give the particulars of the acceding States, the name of their respective Rulers and the exact date when their Instrument of Accession were accepted by the then Governor-General of Pakistan, M. A. Jinnah, the Quaid-i-Azam.

<u>S. No.</u>	<u>Name of the State</u>	<u>Name of the Ruler</u>	<u>Date of Accession</u>
1.	Bahawalpur State	Sadiq Mohammad Abbasi	5th Oct. 1947
2.	Khairpur State	Ghulam Hussain, Chairman of the Board of Ragency on behalf of Minor Ruler, Mir George Ali Murad Khan Talpur.	9th Oct. 1947
3.	Swat State	Abdul Wadood	27th Nov. 1947
4.	Amb State	M. Farid Khan	31st Dec. 1947
5.	Dir State	Mohammad Shah Jahan	18th Feb. 1948
6.	Chitral State	Muzaffar-ul-Mulk	18th Feb. 1948
7.	Lasbella State	Mir Ghulam Qadir Khan	17th Mar. 1948
8.	Makran State	Bai Khan	17th Mar. 1948
9.	Khajran State	Mohammad Habib-ullah Khan	17th Mar. 1948
10.	Kalat State	Ahmed Yar Khan	31st Mar. 1948

29. Thereafter the Ruler of Kalat, Makran, Lasbella and Karan, entered into an agreement i. e. Covenant, on 11th April 1952, for the establishment of a United States by the name of "Union of Baluchistan States", comprising the territories of the four States with a common executive, legislature and judiciary. A Council of the Rulers consisting of the Covenantee States was formed, which had the right to elect one of its members to be the President of the Council. The President so elected was to be known as the Khan-e-Azam. The Interim Constitution and the Rules of business were to be made by the Council of the Rulers. The Baluchistan States Union (Interim Constitution) Act, 1952 was accordingly framed, wherein the Rulers took the line of transition to a Constitutional monarchy in view of People's demand for democratisation. The formation of the Baluchistan States Union was made, after the careful study of an identical Union made in India, on 22nd April 1948, by the heads of States of Gwalior, Indore and Malva. Thereafter five more States joined the States of Gwalior, Indore and Malva with effect from 1st July 1948, the revised name became the United States of Madhya Bharat, which is now the Province of India. Similarly on 5th May, 1948 the Rulers of Independent States of Faridkot, Jind, Kapurthala, Malerkotla, Nabha, Patiala, Kalsia and Nalgarh entered into an agreement for the establishment of a New State called the Patiala and East Punjab States Union or more briefly the PEPSU UNION comprehending the territories of their respective states with a common executive, legislature and judiciary.

30. The last Political event in our country was the enactment of "The Establishment of West Pakistan Act 1955" which integrated on 14th October 1955, all the States and the Provinces into a Single Province of West Pakistan. The States of Amb, Chitral, Dir and Swat, escaped annexa-

tion, because they were treated as the "Special Areas". But these States were also slowly and gradually incorporated into the Province of West Pakistan. Section 87-A (1) (a) of the Civil Procedure Code named these States, as the "Merged States" because they were merged into the Province of West Pakistan. But no new name has been assigned to them, after the disintegration of the Province of West Pakistan in 1970, nor any effective step has been taken to re-organise them, on rational or scientific basis.

THE STATUS OF BAHAWALPUR STATE AND ITS RULER AFTER ACCESSION AND BEFORE INTEGRATION INTO WEST PAKISTAN

Sayce. Versus Ameer Ruler Sadiq Mohammad Abbasi Bahawalpur State.

As reported in (1952) Volume I—All England Law Reports, Page : 326

31. On May 24, 1950, a writ was issued in an action for damages for breach of contract against the Ameer Ruler Sadiq Mohammad Abbasi of Bahawalpur State. The Ameer entered a conditional appearance and took out a summons asking that the service of the writ be set aside on the ground that he was entitled to immunity as the ruler of a sovereign State. On an enquiry by the Court about the status of Bahawalpur State, the Commonwealth Relations Office replied on 4th September 1951, as under :—

"(1) I am directed by Mr. Secretary Gordon-Walker to refer to your letter dated Nov. 13, 1950, addressed to the Attorney-General, and to express his regret for the delay in replying.....(2) I am to request you to inform McNAIR, J., that until Aug. 15, 1947, His

Highness the Ameer of Bahawalpur was recognised by His Majesty as the ruler of the State of Bahawalpur, which was under the suzerainty of His Majesty. The territory of the State was not part of British India or of His Majesty's dominions, and neither the Ameer nor his subjects were subjects of His Majesty. Although the Ameer was not wholly independent, he exercised, as ruler of his State various attributes of sovereignty including internal sovereignty, and his position was similar to that of the Gaekwar of Baroda who was held in *Statham V. Statham and Gaekwar of Baroda* (1) ([1912] P. 92), to be a sovereign ruler entitled to immunity from suit. (3) The position of the State of Bahawalpur as a State under the suzerainty of His Majesty was altered by the Indian Independence Act, 1947, and the Government of India Act, 1935, as modified under the provisions of the 1947 Act. Section 1 of the 1947 Act set up as from Aug. 15, 1947, two independent dominions to be known as India and Pakistan. The territories of the dominion of Pakistan were, by s.2(2), defined as certain named provinces of British India, which formed part of His Majesty's dominions. The Act provided in s.8 that the dominion should be governed as nearly as might be in accordance with the provisions of the Government of India Act, 1935, subject to any orders made by the Governor-General under s.9 of the 1947 Act and to any other provisions made by or in accordance with a law made by the Constituent Assembly of the dominion. Copies of the Acts of 1935 and 1947, as modified by the Governor-General's orders and by laws passed by the Constituent Assembly of Pakistan, are enclosed. (4) The Government of India Act, 1935 (as so modified) created by s.5 a federation to consist of the aforesaid territories of the dominion (including the capital) and such Indian

States as might accede to the federation under s.6. In pursuance of this section His Highness the Ameer of Bahawalpur executed on Oct. 3, 1947, an instrument of accession, and he executed further instruments or agreements on Oct. 1, 1948, Aug. 2, 1949, and April 29, 1951. As a result of these instruments and of the provisions of the Acts of 1935 and 1947, the constitutional position of the Ameer and of his State is now as follows :

- (a) The federal legislature of Pakistan (of which the Ameer is not a member) has power to make laws for Bahawalpur with respect to the matters set forth in Parts I and II of the schedule to the instrument of April 29, 1951, although in respect of the matters set forth in Part II the Bahawalpur State legislature has a concurrent legislative power. The subjects on which the State legislature has exclusive power are set out in Part III of the Schedule.
- (b) Executive authority in the State in relation to federal subjects is exercisable in accordance with ss.8 and 124 and 125 of the Act of 1935, and art. 3 (b) of the instrument of April 29, 1951, that is, either through the Ameer and his officers, or by officers of the federal government, as the Governor-General may provide by order made after consultation with the Ameer. Otherwise executive authority in the State remains in general with the Ameer.
- (c) The federal court has the jurisdiction within the State conferred on it by ss.204 and 207 of the Act of 1935, and as provided by clause 6 of the 1951 instrument.

(d) By clause 7 of the instrument of accession of October 3, 1947, it was provided that the Ameer was not committed to accept any future constitution of Pakistan, and that his discretion to enter into agreement with any future government of Pakistan was not fettered, but by clause 4 and 5 of the 1951 instrument he has agreed to be bound by future changes in the Constitution Act.

(e) Clause 8 of the instrument of accession and clause 9 of the 1951 instrument provide that nothing in the instrument is to affect the ruler's sovereignty in and over the State nor (save as provided by or under the instruments) the exercise of any powers, authority, rights and jurisdiction enjoyed by him as ruler.

(f) Under the Pakistan Citizenship Act, 1951, the subjects of the Ameer have now in general also become citizens of Pakistan, while remaining subjects of the ruler; they are therefore now British subjects, or Commonwealth citizens, under s.1 of the British Nationality Act, 1948.

(5) The Government of Pakistan have informed the Secretary of State that the State of Bahawalpur did not, on accession to the Federation of Pakistan, become a part of His Majesty's dominions, and that the view of the government of Pakistan is that the Ameer has continued to be a sovereign ruler and is entitled to immunity before the courts both within and outside Pakistan in civil cases. (6) In

these circumstances I am to say that the State of Bahawalpur is not a part of His Majesty's dominions, and that the Ameer, within the limitations imposed upon him by the constitutional arrangements set out above, is sovereign ruler of the State."

32. McNair, Judge, of the Kings Bench Division while dismissing the matter against the Ameer, because he was sovereign ruler of Bahawalpur State held vide his judgment dated 21st January 1952 *that* the certificate of the Commonwealth Relations Office was conclusive as to the fact that the State of Bahawalpur was not within His Majesty's dominion; and *that*, within the limits imposed by the constitutional agreement set out therein, the Ameer was the sovereign ruler of that State. The Judgment was upheld by Court of Appeal on 20th May, 1952 as reported in 1952 Volume 2 All England Law Reports 64, but Mr. Zulfiqar Ali Bhutto says to the contrary that the Bahawalpur State, is the integral part of the Punjab.

33. **The Bahawalpur State :-** Bahawalpur shall mean the territories comprised in the state of Bahawalpur immediately before the Fourteenth day of October, 1955 as defined by the General Clauses Act. Any reference regarding Bahawalpur in this Book, be understood as reference to the Bahawalpur State, as it existed immediately before the Fourteenth day of October 1955. Bahawalpur State before its merger embraced an area of 21,000 square miles which in area is far larger than many Countries like (1) Belgium (2) Denmark (3) Switzerland (4) Luxumberg (5) Holland

(6) Albania (7) Israil (8) Bhuttan (9) Sikkim (10) Trinidad (11) Costa Rica (12) Elsalvador (13) Cyprus (14) Singapore (15) Gibraltar (16) Malta (17) San Marino (18) Liechtenstein (19) Mauritius etc., whereas in population Bahawalpur is greater than many countries of the world like (1) Guyana (2) Dutch Guiana (3) French Guiana, (4) Paraguay (5) Uruguay (6) Costa Rica (7) Panama (8) Hondura (9) Nicargua (10) Trinidad (11) Equedore, (12) Ireland (13) Newzealand (14) Bukhanaland (15) Tunisia (16) South Rhodesia (17) South West Africa (18) Sierra Leone (19) West Rhodesia (20) Somalia (21) Comaroon (22) Liberia (23) Lybia (24) Nayasaland (25) Jordon (26) Israil (27) Bhutan (28) Syria (29) Eden (30) Oman (31) Lebanon (32) Yemen (33) Mongolia (34) Albania (35) Luxumberg (36) Norway (37) Sikkim (38) Singapore (39) Gibraltar (40) Malta (41) San Marino (42) Liechtenstein (43) Mauritius (44) Mauritania etc. Again its estimate population for the forthcoming census 1972, would be 37 lakhs, almost double the population of either Jordan or Laos or Singapur taken individually. The Revenue of the State is double than the combined Revenue of the present Provinces of Baluchistan and the North West Frontier. It was a country within the country. Bahawalpur was the first region to hold the elections, in 1950, on the basis of Adult Franchise. Even in India, the elections on the Adult Franchise basis were held much later. The Quaid-i-Millat, Liaquat Ali Khan, while addressing Civil Officers of the Bahawalpur State on 24th March, 1949, on the usefulness of the introduction of reforms in the government of Bahawalpur State, and the forthcoming elections, rightly observed :

“If the public of Bahawalpur can choose 25 honest, hard-working and selfless people in the coming elections, the Bahawalpur State would be the most fortunate part of Pakistan. The Ruler of Bahawalpur is very keen to

introduce reforms culminating in the establishment of a responsible Government as in any other province of Pakistan.

One thing which the Ruler of Bahawalpur has announced, has surpassed even the existing election system prevailing both in India and Pakistan, is that of adult franchise, With these facilities available to the public, it would not be possible for them to say that because franchise was restricted, therefore only a certain group could compete in the election.”

34. Bahawalpur State People, therefore rightly say that the Bahawalpur State was so geographically situated in the West Pakistan that it might have created a crisis and imminent threat to the very existence of Pakistan. The delicate situation called for the highest degree of statesmanship on the Part of the Ruler, and the People of the State. This mighty achievement of Pakistan could not have been had peacefully but for the Patriotism of the people of the State and the far-sightedness of the Ruler. Both of them, are equally the Co-architects of the Pakistan. In the end, they say that they have discharged their part of the obligation and the failure on the part of others, would be a breach of faith in case their demand for separte Province is not accepted.

CHAPTER VIII

Proposal for Reorganisation

1. The urge for linguistic province of Bahawalpur has now gone deep down in the minds of masses living in that region and a refusal to create it at this stage is leading to an immense wide spread frustration which are not very healthy for the country. The living experience of Belgium and Switzerland are before us which had not only ensured greater democracy than most of her European neighbours but also has established the greatest degree of internal peace by having a consistent democracy throughout its State. No democrat denies that all languages should have equal status. The example of India is again before us which has resolved its problem on "one language one province" basis. Pakistan has undermined her development by putting a particular language speaking people in the privileged position. The examples of Austrian and Turkish Empires are also before us, as to what happened to them by not resolving the conflict. As Canada set the example of Prince Edward Island and gained New Foundland. Pakistan will also by creating a Province of Bahawalpur will eventually gain the Province of KASHMIR, if the

wishes of the people are respected, and democracy ensured throughout its area. The two questions that arise immediately are whether it is necessary to partition the present province of Punjab and make two separate Provinces for Punjabi speaking people and Saraiki speaking people and secondly if the Saraiki speaking province is made or in the alternate the former State of Bahawalpur is restored to the Status of a Province whether it will be financially viabal.

PARTITION OF THE PUNJAB

2. Punjab is a bilingual Province where Punjabi and Saraiki is spoken. The Political leadership and administrative authority remained always the monopoly of the dominant language group, i.e. the Punjabi speaking people. The Saraiki speaking minorities were denied an effective voice in the Government of their province. Welfare activities as well as development plans are also unequally and unfairly distributed, the area inhabited by the dominant language group has developed at the expense of other area. After looking into Gujrat, Gujranwala and Lyallpur, one is to look to Muzaffargarh and Dera Ghazi Khan, one feels that the wheels of the history had been turned back to 300 years. This neglected area will receive a fair deal not only in the social and cultural sphere but also in the political and economic field when it is separated from the Punjabi speaking area. The unwilling association or co-existence however long, would not succeed in producing the atmosphere of mutual goodwill. Their case has gone very strong with the annexation of the Bahawalpur territory in the Punjab as there is requisite sense of unity between them and the Bahawalpur people. Besides the Province of the Punjab have now over growth with the annexation of Bahawalpur and its partition is inevitable.

3. There is striking comparison between Punjab and one of the former Province of Germany called Prussia which in the course of time gained a dominant place in Germany. Created by the Prusso-Militarist reaction, the German State eventually became really greater Prussia, as greater Punjab was made by the creation of West Pakistan. Occupying 65 per cent of Germany's area, accounting for over 61 per cent of her population, with two third of the cultivated land and an equally big share in industry, and fielding two-third of the armed forces, Prussia was the most influential of the states of the German Empire. She therefore controlled in the State Assembly, the representative body of all the States of the Empire. When she was out-voted on some minor issue in 1880, the Minister-President who was also speaker of the Assembly compelled the "recalcitrants" to bend to Prussia's will and guarantee, that an unfavourable vote would never recur. The Civil service of Prussia aided by the Police saw to it that rest of the Germany followed the lines of Prussia. People rightly called the political system in Prussianised Germany as a "Police guarded Military despotism, embellished with Parliamentary Forms". Prussia had a firm grip on German's Political life using its resources to block her democratic reconstruction. It made no concessions to the other provinces. Hugo Preuss, the Home Minister of Germany in 1919 demanded that Prussia's existence and monopoly were incompatible with the principle of a United States of Germany, therefore it should be divided into smaller Provinces. This was the only way to restrict its dominant influence. His project was vehemently attacked by the Prussians and instead a new draft constitution was placed before the National Assembly in Weimar on 21st February 1919 to the advantage of the Prussians, which after enactment became the constitution of Germany, popularly known as the Weimar Constitution. It was argued by Heinge an

important leader of the Germany at that time, "We cannot afford to atomise Prussia. For we shall then destroy the only pillar of our Empire. We therefore refuse to partition Prussia." This set the stage for the Hitler Dictatorship and the Weimar Constitution began to die its own death in the hands of Prussians. Ever since the creation of the Pakistan, the Province of Punjab exactly behaved as Prussia did, and it also set the stage for Ayub Khan's dictatorship. It had no respect for other Provinces and the smaller region, what happened to Germany eventually will also happen to Pakistan, if the present Punjab is not divided into two Provinces on the principle of language and culture. If the suggestion to divide Prussia was accepted, there would have been no Hitler—and no main division of Germany between the Russians and the Americans at the Potsdam conference. It is therefore time the Province of Bahawalpur or Saraikistan is created which will only bring down Punjab from its commanding political height. By annexing the territory of the Bahawalpur in the Punjab, it has invigorated its power which is all the more harmful for Pakistan. We must remember that history never fails to repeat and we must learn from the example of the Prussians.

FINANCIAL VIABILITY

4. Financial and economic considerations are most relevant to any scheme of redistribution of territories and is to be kept in mind whether Bahawalpur territory on its own or with the addition of Saraiki speaking areas of Multan, Muzaffargarh and Deraghazi Khan will be financial viable and if so, how far it should be a factor having a bearing on the creation of a new province. The financial viability of the New Province is to be examined with the per capita national income as well as with the comparative

study of the per capita income of the other provinces. The other factor to bear in mind is the potential growth of per capita income of the region, which is proposed to be made into a separate province.

5. The term "Viable" is generally understood to mean "capable of living, or existing or developing." The two important concepts of viability would therefore appear to mean, the maintenance and growth. Translated into financial terms these concepts would mean that the Province should have adequate financial resources to maintain itself and develop its economy. In other words it means the ability of the Province to balance its budget over a reasonable period of time not necessarily within each single financial year, as well as the capacity to increase its economic resources in such a way that it is possible for it to balance its budget at a higher level of development.

6. Units which can satisfactorily be self-supporting should be constituted into a separate Province so that they have incentive to raise and are able to raise, on their own initiative, the resources needed for their development. On the other hand the units which look to the centre for meeting their ordinary obligations of the Province or Revenue Account, be either dismantled or discouraged.

7. Keeping these ingredients in the mind, on the average Bahawalpur State's revenue before it merged into Pakistan and its expenditure were not only in balance but surplus. On the other hand it contributed to the finances of the centre in sizeable quantity. The per capita income of its inhabitants was more than the per capita income of the Province of the Punjab. Its State Revenue was twice the States Revenue of the North West Frontier and when compared to the present Province of Baluchistan

there was neither any ratio nor proportion between the two, If the frontier of the Bahawalpur States are restored as a new Province it will surely be financially self supporting and further it will be able to carry the burden of Muzaffargarh and Deraghazi Khan if all the regions agree to form a new linguistic province. The test set out if applied to Baluchistan will show that at the present time, its financial position cannot be considered satisfactory, but inspite of the same it is a separete province.

8. Sir John Lathan, the former Chief Justice of the Australian High Court had observed. "If a Federal system with any real independence in the Provinces is to continue, the province must have financial resources under its control reasonably adequate to its responsibilities." If these observations are allowed to apply to the Bahawalpur territory, it can meet its own development expenditure. The financial power and resources are at any rate enough to cover its normal non-development or rather non-plan expenditure. It will be preferable to have units where the percentage of expenditure on general administration and overhead is not excessive.

9. In the light of the above observations, it is therefore necessary to look into the previous Budget of the Bahawalpur State and compare the same with the contemporary budget of the other Provinces of Pakistan. The budget note dated 25th March, 1955 presented by late Mr. A. R. Khan, Advisor to His Highness the Ameer of Bahawalpur, on the Revised Estimate for 1954-55 and budget estimate for 1955-56, concerning the State of Bahawalpur, shows that the total receipt of Bahawalpur State according to the said Budget was as under :—

<u>Year</u>	<u>Total Receipt</u>
1955-56 — Rs. 19,17,17,000/-	(Rupees Nineteen Crore Seventeen Lakh and Seventeen Thousand).
1954-55 — Rs. 18,53,16,900/-	(Rupees Eighteen Crore Fifty Three Lakh Sixteen Thousand and Nine Huded).
1953-54 — Rs. 20,71,96,539/-	(Rupees Twenty Crore Seventy one Lakh Ninety Six Thousand Five Hundred and Thirty Nine).
10. And the Surplus of the Bahawalpur State budget during the above year after deducting the expenditure i.e. the net closing Balance was as under ;—	
1955-56 — Rs. 3,84,17,912/-	(Three Crore Eighty Four Lakh Seventeen Thousand Nine Hundred and Twelve).
1954-55 — Rs. 4,09,20,612/-	(Four Crore Ninety Lakh Twenty Thousand Six Hundred and Twelve).
1953-54 — Rs. 3,92,09,812/-	Three Crore Ninety Lakh Nine Thousand Eight Hundred and Twelve).

whereas surplus net closing balance for the Budget 1954-55 for other Provinces of Pakistan, as shown from the combined Finance & Revenue Accounts of the Central & Provincial Governments in Pakistan was as under: —

1. East Pakistan	+ 3,27,57,562
2. Punjab	— 87,92,952
3. N.W.F.P.	+ 1,19,75,900
4. Sind	+ 54,77,723

It is therefore obvious on the one hand from the above statement, that the surplus net closing balance, of the Bahawalpur State, for 1954-55, was much more than any Province of Pakistan including the East Pakistan and on the other hand it shows that the budget of the Province of Punjab, was in deficit, and Punjab was unable to maintain its budget. According to economist, the aim for the Establishment of West Pakistan, was to feed the one deficit Region with the Surplus of the other Regions.

11. Moreover paragraph 6 of the Budget Note dated 25th March 1955 presented by Mr. A. R. Khan showed that a Provision of Rs. 10 lakh had been made by the State in the next year's Budget to launch the Tube Well Scheme, and if the scheme made good progress and actual expenditure incurred on it exceeded the provision, the adequated reserve existed to supplement the said allocation. The said paragraph further read that an additional sum of Rs. 10 Lakh had also been earmarked for the implementation of a scheme for the development of Cholistan, within the Bahawalpur State.

12. Paragraph 7 of the said Budget Note is again important, which asserted that henceforth the Bahawalpur State had been run mostly on agricultural economy and although some major industrial undertakings had been set up in the past, but there was still considerable scope for the setting up of New Industries, and that the proposal for establishment of factories for the manufacture of sugar, cigarettes, leather goods etc. were under the active consi-

deration of the Government of Bahawalpur and that a lump sum provision of Rs. 10 Lakh had been made in the budget to increase the tempo of industrialisation. It is worthwhile to note from the budget that Bahawalpur State gave as an advance of Rs. 19,50,000/- to Bahawalpur Textile Mills Khanpur for its establishment.

13. All the development scheme stated in the Budget Note abated on 14th October, 1955, when the one unit was established. If one sees the same Budget Note of 1955-56 at Page 21, one will find the Gross earnings of Bahawalnagar—Fort Abbas—Katulmara Railway line, running within the State. What pains one, to Note that this Railway line thereafter disappeared, with the establishment of West Pakistan, and the disappearance of the Bahawalpur State.

14. The sum and substance, is that Bahawalpur had been able to balance its budget in the past and had also been a surplus and is now in a position to balance its budget over a reasonable time, and it has a capacity to increase its economic resources to meet higher level of development. Besides the percentage of expenditure on the general administration and over head would not be excessive, if Bahawalpur is made a separated unit. Financial viability is to be regarded as an important criterion bearing on the creation of a new province and this consideration when weighed with other important factors like past history, population, culture and wishes of the people go long way to support the case of Bahawalpur for a separate province.

THE GAIN OF PUNJABI SPEAKING AREA AFTER THE ESTABLISHMENT OF PROVINCE OF WEST PAKISTAN

15. It is known to all of us that Industry plays an

important role in satisfying the essential needs of the population of the region and also plays an exceptionally important Role in ensuring the Region's economic independence. The Punjabi speaking Region of the former Punjab, became a favourite field of the Capital investment of the resources of Pakistan, after the establishment of the Province of West Pakistan. The industrial construction of unprecedented scope and scale unfolded in all over the Punjabi speaking area and within a short historical period of 12 years, these backward areas transformed into an advanced industrial-agrarian Regions. A case in point for illustration is a Sargodha Division, which was probably the smallest Division in the Province of West Pakistan and Industrially most backward. It had only a few factories processing Primary Raw material before One Unit, but after one unit more than 345 Factories have been installed at the cost of one Arab Rupees to produce the utility goods. In the matter of Textile, this Division had surpassed all other Divisions even before the Dissolution of Province of West Pakistan. These Industrial Units, besides undoubtedly aided in the development of productive forces, and the growth of production of Raw materials, in the said Region, which again contributed to the enrichment of the producers, farmers. Field labourers and local carriers.

16. Another most important feature of these achievements is the absence of unemployment in the Sargodha Division. At present over seventy two thousand Sargodha Labourers are employed in the factories. They have no fear that they will be left without a job and they are confident of their jobs. Besides these industries actually provide them with the opportunity to work according to their respective knowledge and ability. In the main, the Industrial Rehabilitation of this region was completed, before the dissolution of the Province of West Pakistan.

The Concise Statistic given below is enough to show the Industrial achievements of the Sargodha Division.

Year	Industrial Unit	Capital invested (in Lakhs)	Price of goods Produced (in Lakhs)	Labourers Employed in Factory
1948	58	737.00	00.88	8,700
1960	250	6,926.00	7,400.00	48,000
1965	292	7,743.00	7,900.00	59,000
1968	336	8,040.00	8,000.00	66,000
1970	345	8,245.00	8,500.00	72,000

The major type of Industries in Sargodha Division at present are :—

Type of Industries	No.	Capital invested	Production made
Cotton Textile Spinning and Weaving	17	3065 Lakh	3900 Lakh
Hosiery	21	49 "	40 "
Cotton Ginning and Pressing	31	217 "	650 "
Dying and Finishing	44	90 "	320 "
Sugar	5	1674 "	2000 "
Eatable Oil	4	112 "	800 "
Flour Mills	14	155 "	380 "
Oil Mills	21	129 "	425 "
Soap	19	31 "	100 "

Type of Industries	No.	Capital invested	Production made
Agricultural Equipments	48	29 ..	56 ..
Art Silk Mills	32	160 ..	160 ..
Ice Factories	14	32 ..	8 ..
Printing Press Chemical Industries	37	2426 ..	700 ..
Industries of Textile Spare Parts	20	36 ..	62 ..
Other Industries	18	40 ..	46 ..

It is, therefore, apparent that the capital invested in the establishment of the aforesaid factories, has been paid back by the production which the factories so far had made, and the factories are now the everlasting assets to the Division and its inhabitants.

17. While the economy of the Punjabi Speaking areas after one unit was on the upsurge, the Saraiki Speaking areas were in the throes of a deep and prolonged economic crisis. Although Muzaffargarh and Dera Ghazi Khan Districts both Saraiki Speaking area, had been part of the Punjab for over a century but their economic development remained low and these areas are bound to remain financial deficit, plagued with the problem of unemployment and low percentage of literacy. This disqualiborium of industrialisation, resulting in disproportionate economic developments, of the Two parts of the same Punjab can be noted. The Bahawalpur State, before integration if it made progress and was financially viable, it was on account of the fact that it was a separate Administrative Unit and its heavy

revenue earnings were retained within its boundry and naturally it was on the road to Industrialisation as apparent from the Budget Note. If Merger had not taken place at least it would have installed 9 Industries within its Region with Rs. 9 crore lying in its treasury before the establishment of West Pakistan. The truth, is that Bahawalpur Region today would have been more prosperous than the comperative Sargodha Division if it had remained a separate unit, and there would have been also hundreds of Industries providing food and work to its millions, but instead the region on account of integration started retarding. The conclusion is, therefore, forced on us that no alternative can really be so conducive to the welfare of the people of the former state, but to have their own province considering its size, the density of the population and now the menacing problem of the unemployment. In the alternate, on historical association, administrative convenience, cultural affiliations, and linguistic basis, a reconstituted province be made by adding in it the District of Muzaffargarh, Deraghazi Khan and Multan. The unequal distribution of development expenditure and favouritism in service is the fundamental and major vice of a bilingual Province Besides it is of the utmost importance, in the interest of National Unity, that no Region should nurse a sense of grievance against the other Region. The Example of East Pakistan now occupied by the Indian Forces. is before us.

CHAPTER IX

Brief for Bahawalpur Province

WISHES OF THE PEOPLE

1. The wishes of the people to the extent they are objectively ascertainable and do not come into conflict with the security of Pakistan, should be an important consideration in re-adjusting the territories of the Provinces and creating a new province. There has been a general demand, with popular support behind it, that the former State of Bahawalpur should be made a separate Province. The public sentiments both within, and without, the former state, is overwhelming and insistent on the need for a separate Province. Its people rose with one voice for separate province, on the disintegration of one unit. The bullets from the guns stopped the people from demonstrating when they found their territory merged with the one, which is heterogeneous in character. In spite of it they continue to say that it is not the case of giving up the programme but postponing it, because it is a basic right, and with whole strength and energy the demand will be legally repeated till the achievement of the end, for one demands it, though not really for oneself and one's own

life but posthumously as an heirloom to be handed down to one's children and grand children. It is equally important to bear in mind that —From a very early stage in the Second World War, the problem of the re-settlement of the vanquished countries had been considered by the allies. In August 1941, the Atlantic charter was made known to the World under the Churchill and Roosevelt Joint signatures, which set certain common principles on which they based their hopes for a better future for the World. The main point of the charter enunciated the principal that *no territorial changes were to be made without the freely expressed wishes of the people concerned*. It was in pursuance of this charter that the United Nation set up a commission of enquiry in 1960 to report on the wishes of the inhabitants of ERITREA whether they want to be an Independent Nation or wish to merge with Ethopia, and after ascertaining the wishes of the Inhabitants, Eriteria was made an Independent country.

FINANCIAL VIABILITY

2. Bahawalpur can be a stable and viable unit considered by itself. The Revenue receipts of the area on current account substantiates this fact. At the time of its merger, it was not only financial viable but never had a recurring burden, and its income was double than that of the North West Frontier. The present province of Baluchistan will be in an embarrassing position if compared with the present Revenue receipts of the Bahawalpur. Suffice to say that per capita income in the Bahawalpur State was far higher than the province of the Punjab before both merged in the province of West Pakistan, and it will stand up for itself again without any body's help.

LINGUISTIC PROVINCE

3. The most important of these is the doctrine of an area claiming to be the "Home Land" of all the people speaking a particular Language. Its implication is that a Bengali, a Punjabi or a Baluchi, wherever he is settled, has his homeland in Bengal, Punjab and Baluchistan. It was on the acceptance of all doctrine that the New Provinces are made in the place of the Province of West Pakistan. The Linguistic re-distribution of Provinces has been an integral part of the Muslim Movements. Having sponsored the Linguistic principle by the Qaid-e-Azam Mohammed Ali Jinnah, Alama Mohammed Iqbal, and Late Sir Agha Khan III for many years before the creation of Pakistan, it is impossible for the present political leaders to reverse the current. Saraiki or Bahawalpuri speaking people has also a right like Bengalis, Punjabis and Baluchis to demand a "Home Land" for themselves. The urge for Bahawalpur Province has now gone so deep in the mind of Saraiki speaking people and the delay to creat it, is likly to lead wide spread sense of frustration. India has also solved her problem on the theory of "One Language One State."

THE ADMINISTRATION

4. The abministration will be more accessible to the people of the Bahawalpur Region if their separate Province is made, rather than if administered from Lahore. There will be a livelier sense of local needs and appreciation of local problems on the part their own Government. Further, in such matters as public co-operation in community project areas, availability of voluntary labour for public purposes and the attitude of the people to economic development generally will be more, if the people of the Bahawalpur Re-

gion have their own Province. A closer link between the electorate and its representatives will help to bring about a real unity of outlook and community of interest between the people and those charged with their governance. A separate Province of Bahawalpur will be able to administer its area intensively and to promote social welfare measures much more effectively than administered from Lahore. It is undoubtedly an advantage to have compact and manageable administrative Unit. The experience of the working of province of West Pakistan lends support to the view that, in the large Province, standards of administration deteriorates. It is obviously an advantage that constituent units of a Federation should have a minimum measure of internal cohesion. The collective personality of a people inhabiting a region or a Province is conducive to the contentment and well being of the community. The common language not only promotes the growth of regional consciousness but also make for administrative convenience and a proper understanding of Governmental measures by the people.

PAST STATUS OF BAHAWALPUR

5. In actual practice, on the contrary, the former State proved to be best administered area in Pakistan. Its had achieved a fair measure, of progress and had acquired considerable experience in the working of the democratic form of the Government. Its Civil service Personnel proved their worth when the integration of services was made by the One Unit. Above all it enjoyed relative tranquillity and prosperity under that regime. With the approval of Pakistan the former State of Bahawalpur made its own constitution known as 'Interim Constitution of Bahawalpur State 1952'. If the necessary attributes of a Province, are the Legislative Assembly, Cabinet of Ministers and a High Court, the Baha-

walpur State had its own Assembly, a Chief Minister with his cabinet and a High Court with three Permanent Judges, under the said constitution. Beyond that it had its separate public service commission, before the State ceased to exist on the establishment of West Pakistan Province. It is argued sarcastically by the Bahawalpur people, although Articles 14 and 16 of the Province of West Pakistan (Dissolution) Order 1970, respectively provide that there shall be a separate High Court and a public service commission for each of the new Provinces, but unfortunately the New Province of Baluchistan cannot financially afford either of them and under the circumstances it had to group itself with the Province of Sind in order to borrow its High Court as well as its public service commission. Therefore it is further argued that if this region of Bahawalpur is permitted to exist as a separate Province, it will be a natural political unit and the progress of its people would be model for others to imitate.

NEVER PART OF THE PUNJAB

6. It is further argued that Bahawalpur has never in history been the part of the Punjab. It had its separate entity for the last 3 hundred years. Punjab from the time of Raja Ranjit Singh had been invading Bahawalpur and had forcibly captured its trans-Sutlaj territories. The relationship between the two, had been same as between France and Briton in the past. The Province of North West Frontier as it exists to-day had been, on the contrary, integral part of the Punjab, and had been separated from the Punjab in 1901 because it had a distinct culture and language. There is no justification whatsoever to annex Bahawalpur with the Punjab which is altogether heterogeneous in character and never had been its part in the past. It is Mixing oil with water, and the two can never unite. Besides the merger agreement signed by the Late Ruler was under pressure and therefore is

ineffective, and in any case the territory of the Bahawalpur State was intergrated for the establishment of West Pakistan Province only and were not meant as a subsequent gift to the Punjab. After the dissolution of West Pakistan, the original order should have been restored. Even assuming that the merger agreement was initialed on free accord, the territory of the Bahawalpur had been given to the Central Government and not to any Provincial Government or its successors. Annexation of Bahawalpur with the Punjab is therefore illegal and altogether unjustified. Either based on the history at the time of merger or the earlier history of 1837, Bahawalpur therefore should be restored with or without its trans-Sutlaj, territories to the status of a Province.

PRECEDENT OF MAKING STATE INTO A PROVINCE

7. Finally it is argued that the Province of Baluchistan which has been now carved out by the Province of West Pakistan (Dissolution) Order, 1960 comprises of territories :-

- (a) Quetta Division including the Tribal area thereof
- (b) Kalat Division
- (c) Lasbella District of Karachi Division and
- (d) Nasirabad Sub-Division of Jacobabad District.

If this scheme is closely studied historically, it amounts to the revival of Mir Nasir Khan I,s State who was the ancestor of the Present Khan of Kalat. Mir Nasir Khan's Rule extended to the Districts of Quetta, Mastung, Khuzdar, Harrand, Dajar, Panjgur, Kaj Kasarkand, Dizak, & Kharan, which is now the present Province of Baluchistan. It is futher argued that in 1883 the Quetta Tehsil and the Bolan Pass was taken on lease for Rs. 25,000/- per annum from the

extent to the Districts of Quetta, Mastung, Kalat, Khuzdar, Harrand, Dajar, Panjgur, Kaj Kasarkand, Dizak and Kharan, which is now the present Province of Baluchistan. It is further argued that in 1883 the Quetta Tehsil and the Bolan Pass was taken on lease for Rs. 25,000/- per annum from the Khan of Kalat by the British. Likewise in 1899 Nushki and in 1903. the Nasirabad Sub-Division were similarly taken on lease by the British from the Khan of Kalat. The net result of the West Pakistan (Dissolution) Order 1970 is that it has consolidated the old empire of Khan of Kalat and has made it into a new Province. The people of Bahawalpur therefore contend, that on the same ground and on the same pattern. the Trans-Sutlaj territories of Amir Bahawal Khan III, the ancestor of the present Amir, be consolidated with the territory of the Bahawalpur State as it stood at the time of the time of the merger, and a new Province of Bahawalpur be established.

Besides in the history there are numerous other instances, for example LIEGE, originally a Princely State was incorporated in Belgium and it was made a Separate Province without any change in its boundries and this Province continues upto today.

POPULATION AND AREA

8. The area and present population of the former State of Bahawalpur will be little more than 21 thousand square miles and about 35 lakhs respectively without taking into account the area and the population of Muzafargarh, Dera Ghazi Khan and Multan Districts. If all the Saraiki areas mutually agree to unite it will be defnately an elaborate Province. Even otherwise the area and population of the merged State of Bahawalpur are no less than many countries of the World. The size of its population and area are an ideal for

a New Province. If 10 lakhs people of Baluchistan can have a Province, the demand of 35 lakh people for a separate Province cannot easily be ignored.

CULTURE

9. Bahawalpur culture has its own individual characteristics. It expresses itself in the distinct way of life of a group of people living as an organised community with its own language, habits, ideas, beliefs and even the vocational Pattern of Society. The Bahawalpur or Sariki people, claiming a distinctive culture constitute a recognisable group as it includes a number of persons sufficient by themselves to claim, conserve and develop stable traditions or the characteristics of their culture. Besides this cultural individuality is capable of being expressed in terms of a defined and sizeable geographical entity. This cultural homogeneity is also another important factor, from the point of view of the reorganisation of the Province, the cultural needs of the people have therefore, to be considered primarily in terms of the growth of the regional language, the maintenance of customs and the popularisation of its fine arts.

HISTORICAL FACTOR

10. The important part that historical association plays in creating a common consciousness cannot be denied. The common historical tradition had fostered a sense of kinship and oneness among the Bahawalpur people and that common history therefore should be regarded as a factor relevant to the creation of a new Province for Bahawalpur.

BAHAWALPUR'S GRIEVANCE

11. If an opportunity for expression is given to Bahawalpur people, they ask you to go back in the history of their

State for nearly three hundred years when it was ruled by Amir Mubarak Khan Abbasi the frontiers of his State extended then upto the Districts of Multan, Muzafargarh and Dera Ghazi Khan. Adjoining to the State, the Sikhs ruled the Punjab which tried to expand by aggressive expeditions within the State territory. Multan was conquered, exploited and administered by the Sikhs first in 1777 and later Ranjit Singh colonised the remaining Trans-Sutlaj territories of the State which are now the present Districts of Muzafargarh and Dera Ghazi Khan. It was on account of the Sutlaj River and the British threat that the remaining territory of Bahawalpur escaped colonisation by the Punjab. The time might come when the two divided territories are put together in the shape of a new Province. But at least they wish to preserve it what had been in their hand, at the time of merger.

THREAD OF EXPLORATION

12. Thread of exploration, was picked up, again within our memory, when there had been a steady flow of the peoples from the Punjab Province into the State. They entered into the Civil service of the State in the first instance and soon captured the key posts. The Punjab people, in particular, interested in the agricultural land of the State, the Civil Authorities within the State, now manned by them actually catered this demand by introducing the scheme of "Agrarian Reforms" which opened the gate way to land plunder. A considerable part of the State land was given free to each Punjabi settlers but the local peasantry was denied this opportunity and according to the mental habits of Bahawalpur people they showed tolerance and their aspirations remained dumb. The influx from the Punjab was so great that in few years time, one of the District of the State had more population of the settlers than of the locals living since time immemorial. The other two districts of the State were also largely affected by the mass exodus from the Punjab.

On the one hand there was the process of concentrating the land in the hands of these settlers, on the other hand, wide mass of local peasantry were being deprived of their land by purchase or otherwise by the rich settlers. The net result was that 65 per cent tilled land now lies in the hand of these settlers. There never had been such an ambazzlement of land so big in the sub-continent. It was late in the day, the Bahawalpur people argue that they realised that it was a step forward towards "Formal Colonisation" and if Raja Ranjit Singh were to re-appear here to-day, it is certain that he would be happy over his endeavours and see his dream accomplished. They further argue, that the Ruler of the State, in the pre-partition days enacted a law prohibiting Hindus from buying land from local Muslim peasantry but the framer of the law could not predict the future consequences of the land being purchased from them by outsiders.

ECONOMIC CONTROL

13. The story of exploration does not end at the conquest of its territories by Ranjit Singh, or the subsequent events of the consolidation of the lands in the hands of the settlers and their gradual increase in the population within the former state. Settlers now entered the third phase, when they achieved the economic control of the weaker and undeveloped locals of the Bahawalpur. The control of the entire markets went into their exclusive hand, the communication net work within the State became their monopoly, the Ginneries and Industries are now owned by them. The settlers are now the Industrial Rulers of the former State. The people of Bahawalpur therefore argue with force, that the most dangerous type of colonialism is in fact the combination of political and economic conquest. The consequent is that the huge wealth has been pumped out from the locals population which has been doomed to abject poverty. Un-

employment has assumed large proportion among them, and the living standard, the productivity and purchasing power of the mass of local people is abysmally low.

EXCLUSIVENESS OF THE SETTLERS

14. In spite of the fact that the Punjabi immigrants lived together with the local population within the State for about 50 years, but they maintained their exclusiveness and did not unite with the locals and preserved their ethnic distinction and own language, but the locals continued treating them generously and presumed them their brothers. But when the time of trial came on the Bahawalpur people who fomented separatist sentiments on finding their territory merged in the Punjab, the immigrants not only refused to join the locals in their struggle for separation, but on the contrary proved their social contradiction by welcoming the annexation of the Bahawalpur with the Punjab, which is their original land of abode. It was at this time that the locals realised that they had been in illusion and the immigrants acted as the vanguard for the Punjab. The initiative for colonisation always come from the individual enterprisers. South West Africa was seized single-handed by the German adventurer and trader Luderitz. East Africa was ruled by the German conquistador Peters. Nigeria was conquered by a handful of enterprising Britishers, who founded the Nigerian Company. The Congo was seized by the explorer Stanley, who was backed by the King of Belgium, Leopold II, If their schemes failed, they were forgotten. If they succeeded, their government took them under their wing, despatched a fleet or army to their "domains" and declared the captured land their colony.

CHOLISTAN

15. The further danger lies ahead, Bahawalpur people

argue, cholistan—a desert area of about 13000 sq. miles—which is the two third of the total area of Bahawalpur State, is about to be irrigated by the two link canals in 1973 when the Trabela Dam will be completed. Taking into the account of the past history of the Punjab and its settler, the people of Bahawalpur predict their future consequences and a hundred years hence, they will be another Red Indians. The cholistan will be swamped by the immigrants from the Punjab and not only the land will be embezzled but the Punjabi population will invariably out number the locals. Thereafter on account of their numerical superiority, the question of separation of Bahawalpur from the Punjab will abate for ever. The fear by the Bahawalpur people is therefore well founded and inevitable. The only course to save them is to give them a separate Province.

BAHAWALPUR RETARDS

16. Bahawalpur Region, in comparison with the Punjab has a higher per capita Revenue but inspite of it, the present financial embarresment to the Bahawalpur has been on account of the Punjab. Ever since the establishment of the Province of West Pakistan, made at the instance of the people of the Punjab, the area falling within the former State of Bahawalpur had faced a financial problem of considerable magnitude, the Development became almost nil in the area, the unemployement increased intensively but on the other hand Punjab flourished day by day. If the instance is needed one can draw from the West Pakistan P.I.D.C. which had been established at a huge cost of about Rs, two billions which installed almost all the Industrial Units in the Punjab. Each industrial unit had brought prosperity in the Punjab area where it was established and has also provided hundreds of jobs to its inhabitants. The West Pakistan P. I. D. C. is still to explain for its Antipathy towards the people of Baha-

walpur and their region. It is vehemently argued that the present condition of Bahawalpur, even after the forced annexation is still worse, as this area was as a matter of right entitled to one Fifth of the budget on a districtwise ratable distribution, but instead, it received by first two budgets a charity with an additional liability to maintain the national highway.

FUTURE DEVELOPMENT PLANS

17. When the Plans for future developments will be taken into account, Bahawalpur has a reasonable fear that the claim of its area will not receive adequate consideration in the hands of the Punjab. In the partnership between the Punjab and Bahawalpur, the major partner will derive all the advantage immediately and in the process of time, the big fish will eat away the share of small one without any body knowing it. If the economic development of the country has to be on a planned basis, Bahawalpur if made a separate administrative unit, will receive maximum development from the central planning authority. It will receive certain minimum amount of development expenditure, proportionate to its population, which will be incurred on its own area, and would not let any other region to eat away its resources. The illas-tration of West Pakistan P. I. D. C. would neverbe repeated again.

DOMINANT LANGUAGE GROUP ALWAYS RULES

18. Even the old Punjab was a bilingual province, in which Punjabi speaking people live little far off from Multan towards North West Frontier Province and the Saraiki speaking people live towards North West of the Multan. The Political leadership and the administrative authority always remained the monopoly of the dominant language group,

namely the Punjabi speaking people. The Linguistic minority had been consistently denied an effective voice in the governance of the Province. Welfare activities and the developments plans were unequally and unfairly distributed. The area inhabited by the dominant language groups developed at the expense of the other areas. The same treatment will be meted out to the Saraiki people of Bahawalpur and their area, if allowed to remain in the Punjab.

OIL AND WATER CANNOT UNITE

19. The conflict and discord are inherent in an administration in which diverse elements are forcibly held together where the requisite sense of unity is absent, an unwilling association or co-existence however long, would not succeed in producing that atmosphere of mutual goodwill and understanding which is essential for the working of democratic institution. The people of Bahawalpur and their representatives on the national level are bound to be a tool in the hand of other provinces which are equally frightened of the advance people of the Punjab. It is in the mutual interest of Punjab and Bahawalpur that they be separated.

CONCLUSION

20. On these valid grounds it is therefore argued that there are no essential features in common between the Saraiki speaking people of Bahawalpur and the Punjabi speaking people of the Punjab that can unite them in one group. They have no community of history, no community of territory, no community of economic interests, no community of language and no community of cultural life. It is because of these facts that the Bahawalpur people want separate Province for themselves.

CHAPTER X

One Unit and Events Thereafter

PHILOSOPHY OF ONE UNIT

1. Accretion is the name for the increase of land of a country or a Province, either through formation or an arrangement. Punjab was ambitious to enlarge its territorial belt and over power all the other administrative units in the West Wing. The establishment of the Province of West Pakistan was therefore the new mode of acquiring the territory and to extend the Punjab's authority over vast territories in the West Wing without coming into conflict with any other Province or the State. The second object of the achievement of the Province of West Pakistan, was to put the Punjab people in an advantageous position over the Bengal people who on account of their numerical strength would not let Punjab dominate over the Pakistan. The theorists of the Province of West Pakistan, who were Punjabi in origin, had already gained an effective control over the Pakistan and the time therefore was set to put the abortive theory into practice. The Central Government of Choudhary Mohammed Ali, on the one hand was forcibly concluding the merger treaties with the States in the West Wing for accretion

and on other hand, was framing Article 44 of the Constitution of the Islamic Republic of Pakistan 1956. which in the name of Parity aimed at reducing the numerical strength of the East Wing in the Parliament.

ACHIEVEMENT OF ONE UNIT

2. 14th October, 1955 was the day of accomplishment when the Province of West Pakistan made its appearance and in consequent the Provinces of Sind, Baluchistan, North West Frontier and the States of Bahawalpur, Khairpur, Kalat, Kharan, Makran and Lasbela ceased to exist on account of their forcible annexation with the Punjab. The West Pakistan Province, remained one and the same Punjab inspite of change in the headship, in its form, and in its territory. Lahore was made the seat for the Governor, the Assembly, the Secretariat, and the High Court of the New Province, where every one was supposed to go for his salvation. In short, Lahore was the Mecca from where the entire unified province was being administered. To speak, alone of the New High Court, Mr. A.R. Cornelius Chief Justice of the Supreme Court of Pakistan vide his judgement in the case of Government of Pakistan Versus Syed Akhlaq Hussain reported in P.L.D. 1965 Supreme Court 527 had defined the High Court of West Pakistan at Page 550 in the following words :

“It is clear that the nucleus of the High Court of West Pakistan was furnished by the High Court at Lahore. The Judges of the other High Courts which were merged by the Order of 1955 were, by the instrument of merger, elevated as to status and vested with territorial jurisdiction in respect of the whole Province of West Pakistan and with all the powers and authority, which had been previously exercisable by the High Court in Lahore and the Judges thereof, vide section 7 of the Establishment

of West Pakistan Act, 1955. By section 9 of the High Court of West Pakistan (Establishment) Order, 1955 the Letters Patent of the Lahore High Court was made to apply to the New High Court and all the jurisdiction, power and authority conferred upon the Lahore High Court by that Letters Patent were to be deemed to have been “conferred on the High Court of West Pakistan”. *The impression is gained that thereby there was merely brought about an extension of the territorial jurisdiction of the permanent Judges of the Lahore High Court.”*

ANTI ONE UNIT FRONT

3. The unification scheme of the West Pakistan into a single Province struck the widest echo in the hearts of the Punjabi speaking people, whether they were then in power or in the opposition and the Punjabi speaking civil service of the country gave it the whole hearted support, on the other hand it aroused the indignation of the non-Punjabi speaking people living in the West Pakistan, who interpreted it, as an attempt to establish the greater Punjab. The by-product of the unification became equally dangerous, for it afforded the Punjab people, a chance to expand into the incorporated territories, and lay hand firmly on their lands and economy. These affairs objectively promoted serious Regional consciousness of the Non-Punjabi speaking people and gave birth in early 1956 to a New Political organisation in the name of “Anti One Unit Front” under the leadership of Khan Abdul Ghaffar Khan.

4. The immediate task, before the Anti-One Unit Front, was to give the country an alternate Formula in the event, one unit was broken and equally this Front was seriously opposed to the idea of the restoration of the Princely States, as according to them, the world had travelled a great distance from the by-gone day of the Rulers. The representatives of

many princely States were disappointed, as they were not allowed to join the Front, but it made exception, as for Bahawalpur State was concerned because it was a separate Linguistic area, the author, as the representative of the Bahawalpur. was taken in, as the Founder Member of the Anti-One-Unit Front, and later on at Peshawar session was made the member of the High Command of the Front.

5. The Front listed certain "generally recognised" Tests which a linguistic Area must satisfy before it could be formed into a Province, these were :

- (i) Geographical contiguity
- (ii) Financial self-sufficiency,
- (iii) Administrative convenience,
- (iv) capacity for future development and
- (v) a large measure of Agreement within its borders and amongst the people speaking the same language, in regard to its formation, care being taken that the New Province should not be forced by a majority upon a substantial minority of people speaking the same language.

Based on these reasonings, the Front, by its manifesto demanded that West Pakistan be divided into five provinces namely Punjab, Sind, Baluchistan, North West Frontier and Bahawalpur.

6. The Front received the unexpected support from the areas which were incorporated with the Punjab. and it was decided, by the High Command, that the Front should commence its activity from the former province of the North West Frontier Province. Under the leadership of Khan Abdul Ghaffar Khan, the members of the High Command went from

village to village in the province for mobilising the public opinion against the One Unit. In the words of late Shabir Ahmed. Judge of the High Court of West Pakistan trying Khan Abdul Ghaffar Khan for sedition who stated ;

"It is in Evidence that after the Province of West Pakistan, popularly known as one Unit came into being the accused undertook a tour of the areas which had previously formed the North West Province with the avowed object of mobilising public opinion against the one Unit and formed a party known as Anti-One-Unit Front. It is Evidence, in all the three cases that from 14th February, 1956 to 6th June, 1956 the accused made not less than 84 speeches almost all of which were made in the villages".*

SEDITION CASES

7. On account of the activities of the Front. the most part of the former Province of the North West Frontier, went out of the control and the urgent task, was the re-establishment of the normal life in the said area. The chief measure taken was, that various criminal cases were registered against Khan Abdul Ghaffar Khan and Khan Abdul Samad Khan Achakzai under Section 123-A 124-A and 153-A Pakistan Penal Code for making speeches tending to create hatred between Punjabis and Pathan, and both the Khans were imprisoned.

8. The State, by an application, moved the High Court of West Pakistan, with a request to transfer the cases of Khan Abdul Ghaffar Khan, from the lower Court, to the original side of the High Court which was allowed by the Chief Justice of West Pakistan, who nominated Mr. Justice

* P.L.D 1957 Lahore 142 [149.]

Shabir Ahmed to try the said cases. In the meantime, the author, at the instance of the Front moved separate application for the transfer of the case of Khan Abdul Samad Khan Achakzai, which was also allowed and both the cases were to be tried by the same learned Judge, at Lahore.

9. The Venue of the activity of the Front now shifted from Peshawar to Lahore on account of the trial and both the accused persons were also shifted to the Lahore Jails. Mr. Mahood Ali Qasoori, the Prominent Advocate of Lahore and now Central Minister was engaged to defend Khan Abdul Ghaffar Khan and the author was engaged to defend Khan Abdul Samad Khan Achakzai before Mr. Justice Shabir Ahmed.

NATIONAL PARTY

10. Mr. Mahmood Ali Qasoori, who belonged to the Azad Pakistan Party, which existed in name only and had few supporters in the town of Lahore, after his engagement, suggested for the amalgamation of the Azad Pakistan Party with the Anti-One-Unit Front, during the days of trial of the two Khans. He along with late Mian Iftikhar achieved considerable success in their efforts, The solitary voice against this scheme was that of the author, who as the member of the High Command did his very best to resist the amalgamation, as it was going to change the very outlook of the organisation, but they made such political use of the situation that they slowly and gradually removed all those opposed to the scheme. Most of the members of the Anti-One-Unit Front agreed to the amalgamation which became inevitable and in September, 1956, the two Parties were fused and amalgamated to form National Party.

11. The members of the Azad Pakistan Party, after the amalgamation, were insistent that the earlier manifesto of

the "Anti-One-Unit" Front be revised and they, one and all, were allergic to the very name of Bahawalpur and were not prepared to accept the fact, that Bahawalpur should be made the fifth province in the place of West Pakistan. As a matter of fact, internally they adored the one unit and had only joined the front not only because of its popularity but also for the fact that the Azad Pakistan Party was a burden on their shoulder. To the mind of the author, like Ghandhiji Preaching Islam, they preached, the disintegration of One Unit, but they were very bitter as for Bahawalpur was concerned, and were making wild allegations against those who wanted to revive the Bahawalpur State into a Province.

12. When they were confronted, with the generally recognised test stated earlier, by the original member of the Anti-One-Unit Front, they had no option to argue in the alternative, but insisted, that the word 'Bahawalpur' should not be used and instead 'Four or more' Provinces be inserted in the original manifesto of the Anti-One-Unit Front, which in spite of the strong protest by the author, was adopted, by the National Party and the word Bahawalpur was deleted and 'More' was inserted, in the joint session held in the residence of Late Syed Amir Shah of the Pakistan Times, at Lahore.

13. After the forming of National Party, the trials of the two Khans, changed hands, Arbab Sikandar Khan Advocate who was assisting Mr. Mahmood Ali Qasoori was dropped out and Mr. Amirzada Advocate came in his place. The author was dropped out and Mr. Raza Kazim Advocate originally member of the Azad Pakistan Party came in. The Politics went too far, in the hands of the original member of the Azad Pakistan Party. Finally Mr. Amirzada, and Mr. Mahood Ali Qasoori, Advocates asked the Court for permission to withdraw from the cases as Khan Abdul Ghaffar Khan did not

want them, as his defence Counsels.* The two Khans were convicted and sentenced to pay the fines by separate judgments given by late Mr. Justice Shabir Ahmed, on 24th January, 1957.

NATIONAL AWAMI PARTY

14. Soon thereafter in April, 1957 a split took place in the Awami League, another Political organisation, and was bifurcated into the two groups—Bhashani Group and Hussain Shaheed Group. Moulana Abdul Hameed Bhashani agreed to join National Party and further amalgamation took place, when again the name of the Party from National Party was changed into the National Awami Party. The original members of the Azad Pakistan Party, again sought to revise the manifesto of the party with the hope that even the word 'MORE' would be deleted. At the Peshawar convention, presided by the Moulana this group again made strong protest for the creation of Bahawalpur as one of the Province but were unable to suggest any change in the formula adopted earlier by the Anti-One-Unit Front. The National Awami Party, therefore retained the words Four or more linguistic Provinces, in the West Pakistan after the disintegration of One Unit. The most significant fact to remark is that this original 'Azad Pakistan Party' group had left en bloc the National Awami Party on finding the "Pakistan Peoples Party" on the winning side, and entered therein little before the National elections—and now hold a dominant position in the "Peoples Party", ever since Mr. Z. A. Bhutto became the President of Pakistan. The Bahawalpur people can now well analyse the attitude of the Peoples Party for their cause.

*P.L.D. 1967 Lahore 142 at page 162.

RESOLUTION BY WEST PAKISTAN ASSEMBLY FOR 'FOUR OR MORE' PROVINCES

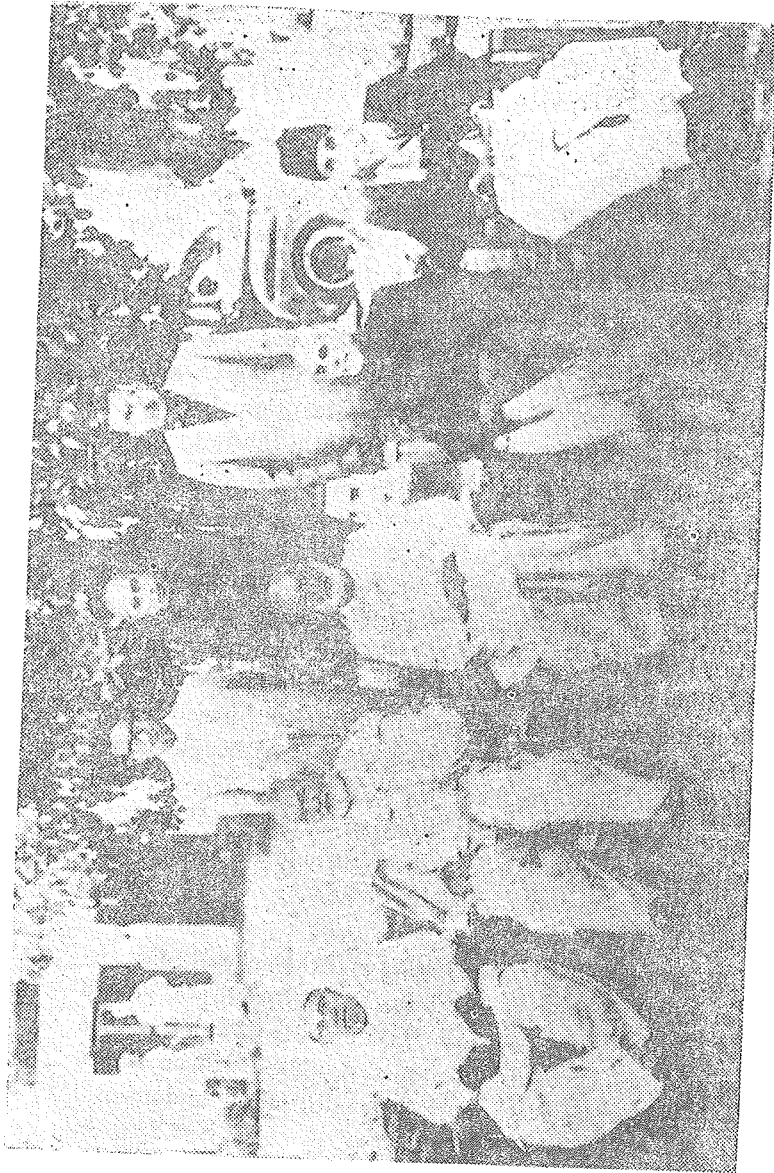
15. To continue the narration, the lack of unity and the separatist tendencies, inabled the Government of West Pakistan, to control the territory and the population of the unified Province, to the extent that its legislative Assembly, by the force of circumstances by majority vote, requested the Constituent Assembly of Pakistan to break One Unit into four or more Provinces. This resolution in the Provincial Assembly was moved by Rais Bhurgari, the original Founder member of the Anti-One-Unit Front* from the Sind which was exactly in the same words as adopted by the National Party or the National Awami Party.

16. The political struggle, for local exclusiveness and Regional separatism, became for more acute in the West Pakistan Province, thereafter and the best known example is the rebellion made by the Khan of Kalat who foisted his own Flag on his last territory and pronounced himself as its Ruler within the frame work of Pakistan. Although the rebellion was brutally crushed, the Khan was deposed and imprisoned, but the internal situation within the West Pakistan Province was not stabilised, the wholesale collapse of Law and Order was only a matter of time.

17. Amidst the political crisis and the general dissatisfaction of the people, a successful Military coup was staged on 8th October, 1958, by the Commander-in-Chief of the Pakistan Army. General Mohammed Ayub Khan, who atonce abrogated the Constitution, suspended the fundamental

*See Photo, Page 132.

Group Photo of High Command of Anti-one-Unit Front



Mohammed Hussain Unqa (Baluchistan) Khan Abdul Samed Khan Achakzai (Baluchistan)
Khan Abdul Ghafoor Khan (N. W. F. P.) Shaikh Abdul Majid Sindhi (Sind) Rais Bhurgri (Sind)
Standing:— Riaz Hashmi Author (Bahawalpur) G. M. Syed (Sind) Hydr Bakhsh Jatoi (Sind)

rights of the humanity, dissolved the Assemblies and the Parliamentary system of the Government and banned the political organisations within the country. The Punjabi speaking civil service of the Pakistan lost no time in sitting next to his elbow, and to the dismay of the people, those who openly opposed the unification scheme, were thrown into the prison and his plans and the programme correspondingly represented the scheme as dreamt by the theorist of the unification scheme- The immense political and administrative difficulties of holding together the vast province of West Pakistan, comprising of various divergent parts, was artificially resolved by the show of force. *Machiavelli*, an ideologist of Italy had published, more than four centuries ago, a book named "*The PRINCE*" in which he argued that contemporary Italy needed a *PRINCE*, who would be strong, cruel, crafty and perfidious, because he saw no other way of bringing about the Unity in Italy. To the Punjabi speaking people, he was indeed *Machiavelli's* Prince, who ought not to be concerned with ethics but only with the best way of achieving their end.

18. The bitterly fought for separation of their area from the clutches of the unified Province, was Baluchistan which had to pay a heavy price for its liberation. Modern artillery and bombers were brought into action by the *PRINCE* to break the uprising in the Baluchistan. Hundreds of political workers and leaders opposed to the unification scheme were imprisoned in the concentration camp set up near Quetta and were tortured in the same manner as the Britishers did in Kenya to crush the Mau Mau Movement. Sardar Neuroze Khan and his six sons were hanged, the Pakistan was not a better place to live for those who opposed the unification idea. These unfortunate events had left an indelible imprint in the mind of the Non-Punjabi speaking people.

19. The unbridled exercise of power and the use of every and any means to keep West Pakistan Province consolidated, made the *Prince of Machiavalli* forget the limits of human power and he proceeded towards his downfall. The emancipatory ideas started, coming into the minds of the people of Pakistan as they saw in him a totaliterian Dictator who was ruling them with absolute and cruel power. The democracy became a distant aspiration and the period of indcision would never seemed to come to an end, but the Prince reading the minds of the people, skillfully stemmed their thought by a political manoeuvre. His own hand made constitution was introduced into the country in 1962 which disfranchised the entire population of Pakistan and instead created a special group of Electors named by him as Basic Democrats who only possessed the suffrage. The focus of the public was diverted for the time being from him towards the new method of Election, but the Police and the Civil Service of Pakistan won for him the Presidential election.

20. Much popular hatred was shown against him, the way he won for himself, the Presidential election. The people could no longer tolerate the mockery of the prince. India across the border read the signs of revolt against the *Prince* and it was at this point that she sent her expeditionary forces into West Pakistan. It was on account of act of God that Pakistan survived 1965 War. The inconclusive War with the India and disappointment over the Tashkant Declaration created all the more hatred against him. His own cabinet ministers started leaving him one after the other. Considerable demand for autonomy of East Pakistan was made by Shaikh Mujibur Rehman who was arrested in May, 1966 with his party members. Fierce rioting broke out in East Pakistan, later in June. the leading opposition news paper in Dacca '*Ittifaq*' was suppressed and its Editor arrested.

21. In spite of it, the *Prince* continued to consolidate

his "One man Rule". He presented the country with a political bible "Friends not Master" and revealed to the people, that in actual, he was the philosopher and the Founder of the unification scheme. The hatred for him, went all the more deeper in the mind of the peoples. They could no longer tolerate the humiliation and the mockery of the *Prince*. In 1967, the Pakistan Democratic Parties, demanded universal Adult suffrage, but it had little impact on him. In November, 1967, he banned the opposition news paper "*Daily Itfaq Dacca*" demonstrating that it could effectively silence the opposition.

22. The *Prince* became seriously ill in February, 1968 and the people of Pakistan thought, probably the nature was coming to their rescue, but their vain hopes died down, when he was recovered. After his recovery, his Government charged 35 Bengalis for plotting secession of East Pakistan, and Shaikh Mujibur Rehman who was since May 1966 in the Jail was accused of being the leader of the secessionists and their trial commenced with full publicity in the News paper.

23. There was no peaceful mean to bring a political change in the country and get rid of the clutches of the *Prince*, around the necks of the peoples, who was squeezing them day by day. In the last resort, the whole country got up, as one vast insane asylum against the *Prince*, and unfortunate for him, his Police and Civil Service could not come to his rescue. The difficult task to overthrow his regime and replace it by a Civil Government had now begun. The riotings had been in each and every town of the Pakistan and the schools were closed indifinately. Mr. Zulfikar Ali Bhuto who was his Foreign Minister, two years ago, declared that he supported the students in their struggle against the tyranny of the *Prince* and was not afraid of blood shed. In consequent he was arrested and jailed on 28th December, 1968, along with 134 other political leaders.

24. Like a drowning man he caught each and every straw. He hastily summoned, the Round Table Conference of all the Political Parties in the country, To those, whom he used to call traitors were released from his prison and were seated next to his elbow and their cases withdrawn. The different social and political basis of to many parties made for, serious differences between them on many political issues of the country, therefore they could not diagnose a medicine for him to save his political life.

25. Rioting which had begun, in October, 1968, claimed more than 20 lives in one week in January, 1969 alone. It was impossible for him to control the mob and as a last resort, he announced in February, 1969 that he was not going to contest the 1970 Presidential election, hoping that the people would let him have the rest of the term, in peace. But he had lost the race against the time and he had to accept the serious suggestion of stepping out of the power. For historians to write, he had left behind a legendary horror of the barbarian, and had sowed the seeds for the disintegration of Pakistan.

26. He was at once superseded and replaced by his Runner up the Commander-in-Chief of Pakistan Army, General Agha Mohammed Yahya Khan, who in the beginning showed a strong ethical feelings and deep respect for the wishes of the people. He restored to the peoples of Pakistan, the Adult Franchise taken away by the *Prince*. He broke, the parity between the East and West wing earlier introduced by Chaudhary Muhammed Ali, and gave the people of East Pakistan, the proportionate representation in the Constituent and the National Assembly, which had been denied to them. To meet, the wishes of the people of West Pakistan, he took a bold step, to break the One Unit into Four Provinces, by enacting the West Pakistan (Dissolution) Order 1970. He gave the country, first time chance to have free and fair,

National and Provincial Elections in December, 1970. His Policy in the first instance tended in the direction of the democracy. Hardly the President knew, while enacting the West Pakistan (Dissolution) order 1970 that parallel with the struggle of the revival of the vanquished Provinces, lay across the Frontiers of the former Bahawalpur State, equally a strong movement for its restoration into a Province and that its people had also made joint endeavour with the people of the vanquished Provinces for the dissolution of one unit, from the time, when the Anti-One-Unit Front, was formed in 1956. The similarities for the demand by the Bahawalpur people and the vanquished Provinces people for the dismemberment of the Province of West Pakistan was obvious but there was one point of difference i.e. the first one was the Princely State and the second one were the administrative Provinces. This point of difference, excluded Bahawalpur case, when the void was being filled by the President who only had taken into account the prevailing political climate of the provinces when breaking One Unit and probably there was none to forecast to him, the thick clouds would also originate from Bahawalpur for separate Province after his decision. The said decision, therefore aroused a storm of opposition, unknown in the history of Bahawalpur. The *hartals* had there become the event of the day, all traders shutting their shops and schools remaining closed. Men and women protesting on the Road side, for a separate Province, and frequently taking out procession, which in no time surge into a vast wave of humanity.

27. For immediate prevention, the Punjab administration clamped all over the Bahawalpur Division Section 144 Criminal Procedure Code which continued in force for several months. Finally to disperse by Fire, unlawful Assembly of 40 thousand persons which collected at Farid Gate Bahawalpur on 24th April 1970 the whizzing bullets were used.

which killed instantaneously Azeem Bakhsh of Abbassnager & several other innocent persons. The leaders, garlanded with Roses, leading the Processions were imprisoned & sentenced to various terms. These drastic acts of the administration gave now a vital life to the movement for a separate Province. But the administration had to thank these imprisoned leaders, who betrayed the cause and jumped out of the jails by leaving behind the written apologies, as they feared, that the forthcoming Assemblies seats would be occupied by the others. The Bahawalpur masses stood, therefore badly betrayed, besides their Chief leader did not belong to them. Their optimism turned into pessimism, in the same manner, what happened to the entire nation of Pakistan on 16th December, 1971. With all this, Two persons namely Shahzada Mamoon-ur-Rashid and Mohammad Akbar Babar, Advocate refused to apologize, and preferred instead to undergo the entire terms of sentence. Let us pay our tributes to them for their heroic and resolute struggle, for their fortitude in the face of the gremmist hardship.

28. These released leaders lost no time. in creating an illusion in the mind of Bahawalpur People, that the results of the coming elections, would be in fact, a Referendum for the Separate Bahawalpur Province. They therefore skilfully converted the almost successful movement, into the channels of the election and achieved for themselves the seats in the National and Provincial Assemblies. The Bahawalpur People could not foresee the cause of events and were over-powered by the morbid imagination, and now they think that the holocaust was a Fantasy.

29. At the national Front, the President of Pakistan, while he was being extolled as an enlightened and progressive President, a group of people from a particular region, who had always tried to block the democracy and cloud man's

happiness, came around him and converted him into an "Oriental Despot." Although the First National Elections were over, wherein Two major Political parties triumphed —Awami League in East Pakistan, and Peoples Party in Punjab and Sind —but these short sighted persons tried to Rule Pakistan, as they had done in the past and they were determined to act in their own ways, refusing to lend themselves to any modification, in the matter of Political and financial arrangements between the Two Wings of Pakistan. They set one political party against the other. Finally East Pakistan blaming West Pakistan, for domination and financial enslavement, evoked considerable discontent and later the struggle acquired a National liberation character. The President felt that his arms were still firm and strong, tried to crush the movement. Pakistan, the land of untold wealth became the land of anguish and untold sufferings. The Awami League was banned on 26th March, 1971 and its leader Shaikh Mujibur Rehman arrested.

In East Pakistan Bengalis killed Non-Bingalis and Vice-Versa, Non-Bengalis killed Bengalis, rather Muslims killed Muslims and Pakistanis killed Pakistanis. Owing to genocide and state of anarchy in East Pakistan millions of people ran for their safety to India, which became an International Problem to the advantage of India and a Scandal to our disadvantage. The trade in the entire Pakistan came to a standstill and the markets dwindled, with the result that new Taxes of Rs. 46 crore were imposed on the entire nation by a budget presented to the country on 26th June, 1971. The world opinion was pressing us hard to re-negotiate with Shaikh Mujibur Rehman and the other members of the banned Awami League, but this suggestion was ridiculed by the "Oriental Despot", as he was not prepared to discuss with the alleged Traitors, although elected by about 60 percent population of Pakistan.

30. Likewise in the West Pakistan, he attempted to destroy its political structure. He aimed first at National Awami Party having majority in the two Provincial Assemblies of West Pakistan, namely Baluchistan and North West Frontier Province. In the first instance he put the General Secretary of the party Mr. Mahmoodul Haq Usmani in the prison and thereafter on 26th November, 1971, he completely banned all groups of the National Awami Party, as according to him, their leaders were also traitors. Mr. Zulfikar Ali Bhutto, the Chairman of Pakistan Peoples Party, which again had the majority in the Assemblies of the two other Provinces of West Pakistan namely, the Punjab and Sind, was forced to say at Quetta on 25th September, 1971, if the National Assembly Session was not called by the President of Pakistan by December, 1971, his party would be forced to do something. In the words of Mr. Z. A. Bhutto, the "Oriental Despot" used to say that, over his dead body Bhutto would rule Pakistan. He did all that he could to fortify his position and would not give in, to the elected representatives of the people. Conflict, between Awami League and Peoples Party was of his own making. He continued to believe that human race in Pakistan was still dead and would lie down in the common grave, but the clever India across the border saw the serious disunity between the Two parts of Pakistan, it once again sent her expeditionary Forces, this time into East Pakistan, and seized it forcibly from us on 16th December, 1971. In the power Struggle, the "Oriental Despot" had presided over the Liquidation of Pakistan. A Society which has no noble, genuinely democratic ideals, whose economy is anarchic, where one Region exploits the other is bound to see the tragedy of 16th December, 1971.

31. If he would have been an honest President, he should have read Articles 20 and 25 of his own Legal Framework Order 1970 which said.

ARTICLE 20.

FUNDAMENTAL PRINCIPLES OF THE CONSTITUTION.

The Constitution shall be so framed as to embody the following fundamental principles :—

- (1) Pakistan shall be a Federal Republic to be known as the Islamic Republic of Pakistan in which the Provinces and other territories which are now and may hereinafter be included in Pakistan shall be so united in a Federation that the independence, the territorial integrity and the national solidarity of Pakistan are ensured and that the unity of the Federation is not in any manner impaired.

ARTICLE 25.

AUTHENTICATION OF THE CONSTITUTION.

The Constitution Bill, as passed by the National Assembly, shall be presented to the President for authentication. The National Assembly shall stand dissolved in the event that authentication is refused.

AND would have let Awami League or the other Parties, to pass the Constitution bill through the National Assembly, and when presented to him for authentication, in case the Bill did not ensure the territorial integrity and the National Solidarity of Pakistan, the very National Assembly would have stood dissolved in the event, the authentication was refused by him. But he did not let the parties to make the Constitution.

32. Moreover the Awami League which was committed to the "six points." The very First Point reads, :—

Point 1. The Constitution should provide for a Federation of Pakistan in its true sense on the basis of the Lahore Resolution, and Parliamentary form of Government with supremacy of Legislature directly elected on the basis of universal adult franchise,

Therefore it was not possible for the Awami League to make a Constitution Bill which did not ensure the territorial integrity and the National Solidarity of Pakistan. But instead the "Oriental Despot" created incidents, which gave rise to mass movement in East Pakistan and thereafter he took violent measures to crush the movement, which instead developed into a National Liberation Movement, finalising in a "Bangla Desh". It is significant to note that in 1971 when the Muslim State of Pakistan was being broken into Two pieces, the Three other Muslim Sovereign States of Egypt, Libya, and Syria were uniting into a Federation by the name of Arab Union.

33. Frightened out of his wits on the Fall of East Pakistan, The "Oriental Despot" hastened to call Mr. Z.A. Bhutto from New York, where he was tearing his Agenda Papers in the United Nation Organization, and before his shadow fell in the President House, Mr. Bhutto was sworn in the President of Pakistan, on 20th December, 1971 by the "Oriental Despot" himself over his living body. Thereafter, the Nation read fantastic romantic stories, of the "Oriental Despot" which had the rings of an Oriental Legends in the style of the tales from the *Arabian Nights*.

The moment, Mr. Bhutto, assumed the Responsibility of the President of Pakistan, he removed from the service, the Military *Janta* ruling Pakistan. Thereafter he nationalised

the heavy industries in the Pakistan and made education free upto a certain standard. He tried to give the relief to the People of Pakistan. To win back, the People of East Pakistan he released Shaikh Mujibur Rehman. He blamed the One Unit, as the main cause of dividing Pakistan into West Pakistan and East Pakistan, a step forward to the disintegration of the country. The main question for us—is, how is he going to solve the problem of Bahawalpur whether he is going to hold to his statement made on 18th February 1971 in Iqbal Park Lahore, that Bahawalpur is integral part of the Punjab or will look into rational and scientific grounds. It will be fair to assume that he had no knowledge of the reasons stated in the proceeding chapters of this Book on 18th February, 1971 and as the President of Pakistan, those feelings will not affect his judgment in the evaluation of Bahawalpur cause. It is serious problem for the country as a whole which cannot be avoided. The practical and the idealistic arguments for the creation of a New Province are so convincing and reasonable that they are near to the solution. The main question is, now how to solve the problem.

CHAPTER XI

Solution of the Problem

The strength of Pakistan is undoubtedly, the Sum total of the combined strength of the people of the component region, and the essential feature of our social fabric is again undoubtedly wide Variation in our life within the Frame Work of Pakistan. It will be unrealistic to disregard the patent fact, that Bahawalpur problem is as an important as the constitution of the country. The Constitution which will not include Bahawalpur, as a separate Province, will be placed in the same shelf where the, Constitution of the Islamic Republic of Pakistan 1956" and "the Constitution of the Republic Pakistan 1962" are resting. It is obvious that the Bahawalpur problem is to be solved, but there has been considerable difference of opinion as to how this objective is to be resolved.

1. National Assembly

1. The National Assmby of the Pakistan, strikes to our mind, probably the first alternative to help us obtian a Province, In fact, all the National Assmby candidates from Bahawalpur, in support of a province, made the domi

nant theme of thir campaign, Knowing in advance, that the Ass mbly has no power to create a new Province. After the election, the great majority of the people are deeply disillu sioned to discover the incompetency of the Assembly. It will be appropriate here to examine the relevant statements of law regarding the jurisdiction of the National Assembly.

2. The Article 4 of the Province of west Pakistan (Disso lution) Order 1970 states, that the Province of west Pakistan ceased to exist and instead be constituted into four province, the Baluchistan, Sind the Punjab and the North West Fron- tier Province, and the territories of each Province are given separate in the schedule of the said Article. The Bahawalpur Division is included in the province of the Punjab according to the siad schedule, Again the Article 3 of the Legal Frame Work Order 1970, repeats that the territories of the each new Province shall be the same as provided in the Pro- vince of West Pakistan (Dissolution) Order 1970. Finally the Article 27 of the Legal Frame Work Order 1970, commands, that the President and not the National Assembly shall have the power to make any amendment in the Legal Frame Work Order.

3. The creation of a new Province, necessarily involves the amendment of the Legal Frame Work Order and distur bing the boundries of one of the Province, The National Assembly has therefore no power whatsoever to do it, more- over it cannot give leave to introduce a bill in the house, for creating a New Province. The National Assembly there- fore is *CORUM NON JUDICE*, and cannot take the very cognizance of the matter.

4. Assuming the President changes the Legal Frame Work Order, and gives the National Assembly the Power to decide the Bahawalpur problem, The basic strength of 69 members from East Pakistan will be missing in the house of

313. In the event the present members of National Assem- bly from West Pakistan are called upon to decide the issue, 85 members of the Punjab can always out vote 27 Sind mem- bers, 18 Frontier members & 4 Baluchistan members even these three Provinces favour the cause of Bahawalpur. More over such an Assembly is otherwise an unworkable institu-tion.

II. Refrandum

Refrandum, is the only civilised mean, of solving the problem and ascertaining the wishes of the majority of the inhabitants of a particular area. It offers a 'fair choice' of solving the dispute and thereafter the conflict ceases. Hist- ory knows cases when the vital issues had been solved by a Refrandum and Pakistan is far more familiar with the Ref- randum than many countries of the world. It was on acc- ount of refrandum that Pakistan gained the District of Sylhet from Assam and the entire province of the North West Fron- tier in 1947.

Moreover the National Assembly of Pakistan had passed "the Refrandum Act 1964" which received assent of the President on 30th August, 1964 and continues to be a good law for the country. The question of Bahawalpur province can be framed and the President can send the question to the Chief Election Commissioner with a direction to hold a refrandum in the Bahawalpur territory on the basis of the recent electoral roll. The result of the Refrandum will, once for all, solve this problem. Let us see, how the other count- ries in the world have solved their identical National prob- lems by way of Refrandum.

1. TOGOLAND

Togoland, in Africa, after the first world war was divi-

ded between Britain and France, The Western Part was under British Trustee-ship. In confirmity with the demand of the people of Togo as well as the decision of the United Nation Trusteeship council, a refrandum was held in Togo in May, 1956. The issue for refrandum was whether to pre-serve British Trusteeship over the Togo or to join it with the Gold coast when the latter gained its independence on 6th March, 1957. The mrjority of the population of Togoland voted for joining the Gold Cost. Independent Ghana was proclaimed on 6th March, 1957 which comprsed of Togoland and the British Gold Coast.

2. GHANA

Immediately after the proclamation of Independence, a movement started within Ghana for abolishing the domin on status and instead establishing a republic system. India and Pakistan on the other hand established, the system of Rr public, by revising their respectieve Constitution, but the Ghana Government instead systematically prepared its coun-try for a Refrandtm. In April, 1960, a Refrandum on the from of Government was held. 1,008000 people voted for the Republic and 131,000 agasnst it. In coufirmity with the results of the Refrandum, a Presidential regime was insti-tuted. Although Ghana remained, a member of the Com-monwealth but the result of the Refrandum automatically terminated the operation of dominion statusand the last British Governor, Lord Listowell, was to leave the country.

3. SOMALI LAND

Somali Land was divided amongst the three Eurpian powers in the beginning of the present century and accor-dingly the three colonies were formed on its teritorry - British

British Somali Land, French Somali Land and Italian Somali Land. When the Italians were defeated in the Second World war, the United Nation General Assembly decided in Novem-ber, 1949 to place the former Italian Somali Land under the Trusteeship and to grant it independence in 1960. In Decem-ber, 1959, the U. N. General Assembly adopted a resolution for granting the Teust territory of Somali Land an Indepen-dence on 1st July, 1960. Side by Side, the British Protec-torate of Somali Land was also proclaimed an Independent State on 20th June, 1960, The two Somali Land States deci-ded to unite and from a New Independent State of Africa, the Somali Republic, and it was mutually agreed by the two States that the Constitution of the New Republic be accepted by Refrandum. A refrandum on the Various draft Constitution was held on 20th June, 1961, and by an overwhelming majority vote, the people approved the constitution which also provided for universal direct elections.

4. FRENCH SOMALI LAND

In French Somali Land, the French Government gave an option to its people to decide by Refrandum, whether they chose to remain as a French community with the status of an overseas territory or to gain complete independence. The Refrandum was held on 28th September, 1958, the French Somali Land voted to remain the French community with the status of an oversea territory. Again, the internal political struggle in the French Somali Land, gained an intensity, on the future status of the territory, whether it was to remain part of the French Republic or to gain independence. itw as in fact, the strugg'e between the two political parties on the ethnic basis. The two hostile ethnic groups were the Afars and Issas and each one was supported by thetwo adjoining countries of Ethiopia and the Somali Republic. The two

groups put the country again to Refrandum in March, 1967. The majority of the population second time voted to remain in the French Republic. French Somali Land is now known as the "French Territory of the Afars and Issas".

5. BUNYORO KINGDOM

In the early years of British colonisation of the continent of Africa, the two Provinces namely Byuaga and Bugangazzi of the Bunyoro Kingdom, were turned over to Buganda, as Bahawalpur had been turned over to the Punjab. The population of the two provinces had not reconciled itself to the separation. When the Buganda gained independence, these two provinces demanded, their return to the Bunyoro Kingdom. The Government decided to settle the question by a referendum which was held in 1964 and the majority voted in the two Provinces were for joining Bunyoro. Early in 1965 the Buganda Parliament approved the results of the Refrandum, Buganda peacefully handed over the Provinces of Buyoga and Bugangazzi to Bunyoro Kingdom.

6. RUNDA KINGDOM

RUANDA in Africa, probably is the most backward area in the world, which is headed by its own King, Raunda which was administratively united with the Congo, gained its independence, in November, 1959 when the Political union of the Ruanda Kingdom with the Belgium Congo was abolished. The King KIGERI ruled his Kingdom thereafter as a full sovereign. The people of Ruanda, wanted to abolish, the system of Kingdom and turn it into a Republic. The King and his people agreed to hold a Refrandum, about the future State system. On 25th September, 1961, the referendum was held and 80 per cent of the electors voted in favour of abolis-

ing the monarchy. The King in grace abdicated, on 1st July, 1962 and the Ruanda became the Republic,

7. CAMEROUN

East Cameroun, a United Nation Trust Territory which had been under French Administration, was proclaimed the Republic of Cameroun on 1st January, 1960, whereas, West Cameroun, a Trust Territory under Britain, was administratively part of the British Colony Nigeria.

After the proclamation of Nigeria's independence in October, 1960, a Refrandum was held in the Northern and Southern parts of West Cameroun in February, 1961 to decide their future, in accordance with a United Nation decision.

In the Northern Camerouns, the population voted to remain in Nigeria and this territory became part of Nigeria's Northern Region in June, 1961, whereas, in the Southern Cameroun, the people voted for reunification with the Republic of Cameroun, and the Federal Republic of Cameroun was formed on 1st October, 1961. The two parts of the Federation are respectively named East Cameroun, —the former Republic, of Cameroun, and West Cameroun, —the former Southern Camerouns.

8. DAHOMEY

The Independence of the Republic of Dahomey was proclaimed on 1st August, 1960. The ethnic composition of Dayomy's population is extremely diverse. These rival regions have historically arisen in the country's territory, The North, where BARIBAS, SOMBAS and other people live;

the District of ABOMEY where FONS, in majority live; and the PORTO NOVO District which is predominantly inhabited by yorubas.

This country made a constitution in 1961, which eventually was not liked by the Rival Regions, therefore the constitution was abrogated and another draft Resolution was made. This draft resolution was put to the Refr. ndum and was approved on 5th January, 1964. Thereafter it became the Constitution of the Republic,

9. THE FEDERATION OF ARAB REPUBLIC

President SADAT of Egypt, President ASAD of Syria and Colonel KADHAFI of Libya met in Damascus on 18th August 1971 to draw up the final plans and to sign the Draft Constitution of the Proposed Federation of Arab Republic, which had been agreed upon earlier by the three Heads of States. This Federal Constitution was submitted to national REFRANDA on 1st September 1971 in the three countries of the proposed Federation and approved in each country by massive majorities. The official results showed that in Egypt 99.9 percent eligible electors voted for the federation, whereas 98 percent in Libya and 96.5 percent in Syria voted for the proposed Federation.

Egypt with a population of 34,000,000 and an area of 1,000,000 square kilometres, Syria with 6,000,000 inhabitants and an area of 185,600 square kilometres and Libya with 2,000,000 inhabitants and an area of 1,759,000 kilometres, by the unanimous decision of their respective People, united into the Federation of Arab Republic with common Foreign Policy, Defence, National Security and 'economic and Financial' Policy.

III President of Pakistan

At present, the only competent authority to solve the problem is the President of Pakistan. If he is guided by the recent experience, which we gained from The East Pakistan, he should not let one Region of the West Pakistan, dominate and exploit the other Region. The Punjab had expanded within the Bahawalpur, as far as she could, in each and every field of the life & after the Break of One Unit the Bahawalpur is now the *Possession* of the Punjab. In order to remove the Domination, exploitation & widespread sense of distrust, it is therefore necessary for the President to create a New Province of Bahawalpur, otherwise there will never be also stability in the Pakistan which is left today.

The second aspect which President must have in his mind, that in the Present Pakistan of 1972, the majority of its people speak "Saraiki Language" which is now the *Lingua Franca* of the Pakistan. It has been generally recognised that in the Provincial distribution under the British or otherwise by the Distribution made by "The Province of West Pakistan (Dissolution) order 1970", The Saraiki speaking people had suffered the most, their area split up into Four Units, in three of which they were at the tail and reduced to the position of ineffective minorities. Bahawalpur State was the only unit originally in which they held the majority, but this administrative unit was also wiped out by the Establishment of the Province of West Pakistan. It is a legitimate claim of the Saraiki Speaking people, for a unification. Such a claim had been recognised by the All Parties conference in 1928. The Indian Statutory Commission in 1930, besides it was supported by the Quaid-e-Azam, Alama Iqbal and Late Sir Agha Khan, as submitted elsewhere in the Book.

The Third aspect, by far is again most important and

goes to the very root of the Stabilisation of the Present Pakistan, after the tragedy of 16th December, 1971. On the basis of the population STATISTICS of 1961, the National Assembly seats were determined for each of the Province, with the result that Sind received 28, North West Frontier Province received 19, Baluchistan received 5 and the Tribal Areas of West Pakistan received 7 totaling 59 seats whereas the Punjab achieved 85 seats in the National Assembly. Therefore all the other Provinces together with tribal seats will be in the minority of 26 seats in the Assembly and even by their combined strength they cannot out-vote Punjab which will, always dominate the house. This will destroy the very Federal Structure. The creation of the Province of Bahawalpur, is the only effective solution which can ensure the stability and preserve the Federal patren in the Present Pakistan. On the one hand it will reduce the strength of the Punjab and on the other hand it will increase the total strength of the other Provinces in the Assembly. A new Province of Bahawalpur with 8 seats from the Bahawalpur Division & with additional minimum 5 seats from other adjacent SARAIKI speaknig area only can afford parity with Punjab with balance the Federation. Otherwise President or the Nation cannot avoid this imbalance except by creating a New Province of Bahawalpur. No workable Constitution can be made in the alternate.

In the end we hope and expect, that the President of Pakistan, besides the aforesaid reasons, considering,

- (1) the size of Bahawalpur,
- (2) the density of its population,
- (3) The Linguistic principle,
- (4) The financial viability,
- (5) The Administrative Convenience,
- (6) The Geographical Contiguity
- (7) The Cultural homogeneaty,

- (8) The Historical factor and
- (9) Over and above the wishes of the majority of the people,

will create a separate province of Bahawalpur by a necessary amendment in the Legal Frame Work Order 1970, and the West Pakistan (Dissolution) Order 1970. If no tears were shed, when the four Provinces in West Pakistan were made in 1970 in the place of One Unit, there will be no tears also if he makes Bahawalpur, a Fifth Province.

**Concise Statments
Filed in The
Supreme Court
of Pakistan.**

APPENDIX

(1)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Civil Appeal No. 15 of 1956.

Riaz Hashmi son of Dr. Faizul Hassan Hashmi
Muslim, Adult, aged 30 years, Advocate, Citi-
zen of the State of Bahawalpur, resident of
Mohalla Mubarkpura, Baghaddul Jadid, ... **Appellant,**

Versus

1. His Highness Alhaj Sadiq Muhammad V
Abbassi, Amir of Bahawalpur State. resi-
dent of Sadiq, Garh, P. O. Sadiq Garh
palalce, Bahawalpur State and 4 others.
2. Province of West Pakistan.
3. Federation of Pakistan.
4. Syed Ahmed Nawaz Shah Gardezi.
5. Chowdary Abdul Salam.

Respondents.

CONCISE STATEMENT ON BEHALF
OF THE APPELLANT

Humbly Sheweth

That the State of Bahawalpur came into existence, Somewhere in 1737. Its subsequent Constitutional history etc. is not material for the purposes of this case. It is suffice to say that the paramountcy by the British Government in relationship to the Indian States inclusive of the State of Bahawalpur was ended by Section 7 of the Indian Independence Act of 1947 and the State of Bahawalpur became an independent sovereign state,

2. That in 1947 the State of Bahawalpur acceded to Pakistan and by the Instrument of Accession allowed the Federation of Pakistan authority to legislate and enact in respect of items mentioned hereunder, i. e. defence, foreign relations, currency and communications. This relationship with the Federation of Pakistan continued till the 14th October, 1965,

3. That in 1952 the Ruler of Bahawalpur brought into existence the Interim Constitution Act of Bahawalpur wherein *Inter alia* a Legislative assembly was brought into existence and only some matters were retained as the special responsibility of the Ruler under section 10 of the said Interim Constitution Act.

3a. That from the date of the promulgation of the above mentioned Constitution Act, the Ruler of the State of Bahawalpur constituted the sovereign body of the State of Bahawalpur and the unfettered powers of the Ruler became subject to the Constitution Act. 1952.

4. That in pursuance of this constitution, elections

were held in the State of Bahawalpur in 1953 and 49 members were elected to the Legislative Assembly.

5. That this Legislative Assembly functioned in terms of the Constitution for almost two years when on the 3rd November, 1954 the Ruler of Bahawalpur issued a proclamation whereby he, in exercise of the power reserved by S. 74 of the Interim Constitution Act, suspended the Legislative Assembly and assumed to himself the powers vested in the Legislative Assembly of the State of Bahawalpur.

6. That there was no reason whatsoever for dismissing the Legislative Assembly and the constitutional machinery had not broken down. But this step was taken with an ulterior motive to curb opposition regarding the future of the State and this fact is further strengthened by the dismissal of the Constituent Assembly of Pakistan on 24th October 1954, a week before the suspension of the Legislative Assembly of Bahawalpur.

7. That since that date this particular form of state of affairs was maintained when on the 14th October 1955 the Ruler of Bahawalpur acceded to the merger of the State of Bahawalpur into the Unit of West Pakistan and at one stroke destroyed the Legislative Assembly, the High Court, Judicial Tribunals and the Executive Authorities of the State of Bahawalpur and as a matter of fact wiped out the State of Bahawalpur from the map of the world. As no act or ordinance has ever been passed thereafter by the Legislative Assembly of Bahawalpur or the Ruler acting under S. 74, legislating to the effect that the State of Bahawalpur be merged with the Unit of West Pakistan therefore the merger is illegal.

8. That the Constituent Assembly of Pakistan passed

the "Representation of State and Tribal Areas Act" on 10th July 1955 and the Constituent Assembly at that time was a body which did not contain any representation from the State of Bahawalpur.

9. That the Constituent Assembly passed an act called Establishment of West Pakistan Act, on 3rd October 1955 and authorised the Governor General of Pakistan to fix a date for bringing into effect the provisions of this Act.

10. That in the Act of 3rd October 1955, the Constituent Assembly made provisions for elections of members for the New Constituent Assembly of Pakistan in respect of the territories comprised in the former Province of Sind, Punjab, Baluchistan N.W.F.P. and the States.

11. That this enactment inter alia provided for the dissolution of the Legislative Assembly of Kairpur and for election of members to the Constituent Assembly of Pakistan by the Legislative Assembly of Kairpur. However, it failed to make any provisions of a similar nature in respect of the Bahawalpur Legislative Assembly and election of members to the Constituent Assembly therefrom. Subsequently it was discovered that the Legislative Assembly of Bahawalpur was not dissolved from the 14th day of October 1955, but that it was only suspended from functioning under S.74 of the Government of Bahawalpur Act. It was, therefore, deemed proper by the Constituent assembly who accordingly amended its laws in relation to the election of members of the proposed West Pakistan Assembly to represent the former State of Bahawalpur by giving the present Legislative Assembly of Bahawalpur, right and power to elect 23 members to the West Pakistan Legislative Assembly.

12. That by this amendment, the Constituent Assembly

of Pakistan recognised, the existence of Legislative Assembly of Bahawalpur and sought to give the Legislative Assembly of Bahawalpur, a right to elect members to the West Pakistan Legislative Assembly in accordance with the procedure adopted in respect of the Provinces and the other State of Khaipur. But the same right was denied to the Legislative Assembly of Bahawalpur in the matter of choosing their representatives to the Constituent Assembly of Pakistan and for voting, for the merger of Bahawalpur in the Unit of West Pakistan.

13. That the Ruler of Bahawalpur (Respondent No. 1) had no authority in law.

(a) To accede to and cause to be brought into existence the merger of the State of Bahawalpur along with all its Legislative, Judicial and Executive institutions in the Unit of West Pakistan *and his act would be as absurd as the suggestion that the King of England should make a present of the United Kingdom to the King of Denmark while the Parliament was not in session,*

(b) That the Respondent No.1 had no authority to nominate No. 4 and 5 to the Constituent Assembly of Pakistan.

(c) That Respondents No. 4 and 5 have no legal right or authority to sit in the Constituent Assembly of Pakistan to represent the petitioner and other citizens of the State of Bahawalpur.

(d) That the Governor-General of Pakistan has no authority to act or assent the legislation in respect of provisions which effect the citizens of the State of Bahawalpur.

(e) That all the threatened acts being done and to be done by the above, named respondents jeopardise and effect fundamental rights and franchise of the appellants and other citizens. These rights were granted and secured by the Interim Constitution Act of 1952 and Proclamation of Queen Victoria of 1st November, 1953, which inter alia, granted:

"we hold ourselves bound to the natives of our Indian territories by the same obligations of duty which bind us to all our other subjects; and those obligations by the blessings of almighty God we shall fulfil and conscientiously fulfil."

and

we know in respect of the feeling of attachment with which the natives of India regard the land inherited by them from their ancestors; and we desire to protect them in all rights connected therewith subject to the equitable demands of the state; and we will with general in framing and administering the law due regard to be paid to the ancient rights, usages and customs of India,"

14. That the appellant is a citizen of Bahawalpur and was deprived of his civil rights and franchise on or about 14th October 1955 and the cause of action has since been in existence.

15. That the act of the Constituent Assembly of Pakistan to legislate in respect of the State of Bahawalpur and its representation in the West Pakistan Assembly and the merger of Bahawalpur with the West Pakistan u/s 74 of the Interim Constitution of Bahawalpur were both ultra vires of the respective authority.

16. That a writ petition No. 30 of 1955 was filed in

the High Court of West Pakistan, Lahore, under s. 223A of the Constitution Act. A Division Bench of the High Court consisting of Mr. Justice Kayani and Mr. Justice Sharif, dismissed the same at the KACHA hearing without issuing notice to the opposite parties.

17. That this Hon'ble Court was pleased to grant Special Leave to Appeal to the appellant as the points involved in the case were considered of great constitutional importance.

In view of the above mentioned submissions it is most respectfully prayed that this appeal be accepted and the relief as prayed for in the Petition before the High Court be granted to the appellant with costs throughout.

Drawn by
(Mr. Khalid M. Ishaque)
Advocate,

Filed by
(M. Siddiq)
Attorney for the Appellant.

Dated. Lahore, the 1st September, 1956.

APPENDIX

(2)

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Civil Appeal No. 15 of 1956.

Riaz Hashmi son of Dr. Faizul Hassan Hashmi
Muslim, Adult, aged 30 years, Advocate, Citi-
zen of the State of Bahawalpur, resident of
Mohalla Mubarkpura, Baghdadul Jadid, ... Appellant,

Versus

1. His Highness Alhaj Sadiq Muhammad V
Abbassi, Amir of Bahawalpur State. resi-
dent of Sadiq Garh, P. O. Sadiq Garh
palalce, Bahawalpur State
2. Province of West Pakistan.
3. Federation of Pakistan.
4. Syed Ahmed Nawaz Shah Gardezi.
5. Chowdary Abdul Salam. ... Respondents.

CONCISE STATEMENT ON BEHALF
PROVINCE OF WEST PAKISTAN, RESPONDENT

Respectfully showeth

1. That the petitioner filed writ petition No. 30 of 1956 before the Lahore High Court (now the High Court of West Pakistan) at Lahore. This was dismissed *in limini* by a Bench of the Lahore High Court by Order dated January 19th 1956. A certificate under section 295, Government of India Act, was also refused to the Petitioner.

2. That the petitioner then moved this Hon'ble Court by petition for Special Leave to Appeal and this Hon'ble Court granted Leave to Appeal "for a consideration of the grounds stated in the petition as it raised some points of great Constitutional importance".

3. That the petition has raised some matter of history which is not necessary to deal with. There is nothing on the record to support these Statements and all these matters remained to be proved. The State of Bahawalpur acceded to Pakistan by an Instrument of Accession dated 3-10-47 accepted by G. G. of Pakistan on 5.10.1947, Supplementary Instrument of Accession dated 1.10.1949, accepted by G.G, Pakistan on 4.10.1948, Second Supplementary Instrument of Accession dated 29.4.1951, accepted by G.G. Pakistan on 30.4.1951, and Supplementary Instrument of Accession dated 1.3.1952, accepted by G. G, Pakistan on 11.4.1955. The Interim Constitution for the State of Bahawalpur was also promulgated by the Ruler in 1952 known as 'Government of Bahawalpur (Interim Constitution) Act. 1952'. Sub-section (2) of Section 8 of the Act stated that the Constitution of Pakistan which may be framed by the Constituent Assembly of Pakistan shall be the Constitution for the

State, and shall from the date of its commencement, supersede and abrogate all other constitutional provisions inconsistent therewith, which may be in the State at the time.

The Ruler of Bahawalpur by a proclamation in exercise of powers reserved by Section 74 of the Interim Constitution Act suspended the Legislative Assembly and assumed to himself the power, vested in the Legislative Assembly of the State. This power was Validly and properly exercised with no ulterior motive. The Establishment of West Pakistan Act 1956 was passed by the Constituent Assembly of Pakistan. Representatives of the State of Bahawalpur were duly and properly appointed to this Constituent Assembly who had full power to make laws in respect of the State in the same manner in which it had power to make Constitutional Provisions for the rest of Pakistan, The Establishment of West Pakistan Act authorised the Governor General to integrate the Provinces of Punjab, N.W.F.P. and Sind, the State of Bahawalpur, other States and Tribal Areas into the Province of West Pakistan- The Governor General by Notification No. F 4 (2) 55 Con. Dated 5-10-1955 integrated these provinces into the Province of West Pakistan.

It was not necessary for the Legislature of Bahawalpur or its Ruler to pass an Act or an Ordinance authorizing the merger of the State with West Pakistan. The Constituent Assembly of Pakistan had passed the Representation of States and Tribal Areas Act on 10th July 1955 which lays down the principle on which representatives of Bahawalpur State were to be appointed to the Constituent Assembly. Representatives of the Bahawalpur State were duly appointed accordingly and they were competent to represent the State and to act on its behalf. The Establishment of West Pakistan Act was passed on the 3rd October 1955 and the Governor General appointed 14th October as

the date of Integration of the Provinces as given in Section 2 of the Act.

4. The Ruler of Bahawalpur State had full authority to accede to Pakistan under section 7 of the Independence Act and had full authority to nominate Respondents 4 and 5 of the Constituent Assembly of Pakistan who were thus competent to sit on the Constituent Assembly of Pakistan to represent the State of Bahawalpur.

5. The petitioner had no fundamental rights guaranteed to him either by the Interim Constitution Act or the proclamation of Queen Victoria dated the 1st November 1856.

6. That the accession of Bahawalpur State with Pakistan was Valid and competent and is now an established fact. Representatives of the State, duly appointed have framed a Constitution for the whole of Pakistan including the State and by virtue of sub-section (2) of section 8 of the (Interim Constitution) Act 1952 the Constitution so framed is a Valid Constitution for the State of Bahawalpur. That being so, a valid Constitution has now been framed for the State. The Constituent Assembly of Pakistan including representatives from Bahawalpur State acting as the Constituent Assembly has ceased to exist. The Respondents 4 to 5 no longer hold office and therefore no writ of "quo warranto" can issue nor is there any occasion now to prohibit them from taking part in the proceedings in the Constituent Assembly, and a demand for a writ of mandamus or prohibition or quo warranto has become infructious. The Constituent Assembly of Pakistan had framed a Constitution and the National Assembly now existing has full power to make laws for the areas comprised in Pakistan. The High Court or the Judicial Committee of Bahawalpur no longer

exist and cannot be restored. The elections were duly held and future elections under the new Constitution will now take place in due course. The writ claimed in Para 19 (vi) is incompetent and cannot be issued. The power of assenting to laws rests with the President, who is immune, and the power of making laws is with the National Assembly, to which a writ cannot issue either.

7. The grounds stated in the petition have no force. It may be stated that copies of the Instruments of Accession dated 3rd October 1947 and the first Supplementary Instrument of Accession dated 1st October 1948 executed by H.H. the Nawab of Bahawalpur and accepted by the Governor General of Pakistan were laid by the Prime Minister on the table of the Constituent Assembly (Legislature) on 14th February 1949. These copies along with Instruments of Accession executed by the Ruler of the other States were printed in the form of a white paper which was actually placed on the table of the Assembly.

The second Supplementary Instrument of Accession executed by the Nawab of Bahawalpur on the 27th April 1951 was laid on the table of the Federal Legislative Assembly by Dr. Mahmud Hussain, the Minister of States for States and Frontier Regions, on 17th November 1951.

The third Supplementary Instrument of Accession executed by the Nawab of Bahawalpur on the 27th March 1952 and accepted by the Governor General was laid on the table of the Assembly by Mr. Mushtaq Ahmed Gurmani on 23rd April 1952,

It is, therefore, submitted that none of the points of law raised have any force and it is, therefore, prayed that the appeal be dismissed with costs.

Drawn by
S. A. Mahmood
Advocate for Supreme Court.

Filed by
Sh. Ejaz Ali
Attorney for the
West Pakistan Province.

opposing attorney is being informed.

Dated 10th September 1956

Sd/- Ejaz Ali

APPENDIX

(3)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Civil Appeal No. 15 of 1956.

Riaz Hashmi son of Dr. Faizul Hassan Hashmi
Muslim, Adult, aged 30 years, Advocate, Citizen
of the State of Bahawalpur, resident of
Mohalla Mubarkpura, Baghdadul Jadid, ... Appellant

Versus

1. His Highness Alhaj Sadiq Muhammad V
Abbassi, Amir of Bahawalpur State: resi-
dent of Sadiq Garh, P. O. Sadiq Garh
palace, Bahawalpur State
2. Province of West Pakistan.
3. Federation of Pakistan.
4. Syed Ahmed Nawaz Shah Gardezi.
5. Chowdary Abdul Salam. ... Respondents.

CONCISE STATEMENT ON BEHALF OF THE
FEDERATION OF PAKISTAN RESPONDENT NO.3.

1. The State of Bahawalpur (hereafter referred to as the State) was one of the Indian States within the terms of clause (b) of Sub-section (1) of Section 7 of the Indian Independence Act 1947, and from the appointed day i.e. the 15th August 1947, the suzerainty of His Majesty (the King of England) over the State and all treaties and agreements, not saved by the proviso to Sub-section (1) of Section 7 of the said Act, between His Majesty and the Ruler of the State, lapsed along with all functions exercisable by His Majesty with respect to the State, all obligations of His Majesty towards the State or its Ruler, and all powers, rights, authority or jurisdiction exercisable by His Majesty in or in relation to the State by treaty, grants, usage, sufferance or otherwise; thus restoring complete sovereignty to the Ruler, present Respondent No. 1 (hereafter referred to as the Ruler). From that moment the Ruler became the sovereign monarch of the State with no fetters on his powers, rights, privileges and jurisdiction so far as the State was concerned. It was however provided in Sub-Section (4) of Section 2 of the aforesaid Act that there was no bar to the State's acceding to any of the two Dominions which had been created under its provisions; and according to Section 6 of the Government of India Act 1935, as adapted for Pakistan, the decision to remain independent or to accede to any of the Dominions was to be Taken by the Ruler and by nobody else.

2. In exercise of the authority vested in him, the Ruler acceded to Pakistan on the 5th October, 1947 when the Instrument of Accession executed by him on 3rd October, 1947, was acceded by the Governor General of Pakistan (hereafter referred to as the Governor General). A

Schedule setting out the matters about which the Dominion Legislature could make laws for the State by virtue of this accession was appended to this instrument, Later on an "Agreement" dated the 4th October, 1948 was entered into between the Ruler and the Governor General in respect of certain matters relating to "Defence or having a bearing thereon", whereby the State Forces, except the units of the Ruler's Body Guard, were attached to the Pakistan Armed Forces. This was followed by another "Agreement" dated the 30th December, 1948; under which the State was grouped with the Khairpur State for purposes of representation in the Constituent Assembly of Pakistan but the right to nominate the State representative on that Assembly was retained by the Ruler. Mualvi Fazal Hussain who was nominated in this connection took his seat in the Constituent Assembly on the 18th January, 1950, Later on he was replaced by Syed Hassan Mahmood who took his seat on the 11th April, 1951. The object of securing representation for the State on the Constituent Assembly obviously was to take advantage of the collective wisdom and experience of the Constituent Assembly for dealing with matters concerning the State, more particularly in respect of Constitutional measures, enacted by that Assembly. This intention was further made clear in clause 5 of the Second Supplementary Instrument of Accession executed by the Ruler on the 29th April and accepted by the Governor General on the 30th April, 1951, which said:

"I hereby further declare that if and so often as any provisions of the Constitution Act are altered by competent authority, then the Accession Instrument and the First and Second Supplementary instruments shall be deemed to have been modified in accordance therewith, and the said Instruments shall be construed in such manner as to be consistent with the altered provisions

of the Constitution Act, "namely the Government of India Act 1935 as in force in Pakistan, as stated in the preamble to the Instrument.

3. A Third Supplementary Instrument of Accession was executed by the Ruler on the 27th March, 1952 and accepted by the Governor General on the 11th April, 1955, Sub-clause (ii) of Clause 1 of which stated as under.

"The Constitution of Pakistan as framed by the Constituent Assembly of Pakistan, which includes the duly appointed representative of this state, shall be the Constitution for the State of Bahawalpur as for the other parts of Pakistan and shall be enforced as such by me, my heirs and successors in accordance with the tenor of its provisions; and that the provisions of the said Constitution shall, as from the date of commencement in my State, supersede and abrogate all other constitutional provisions inconsistent therewith which may be in force in this State immediately before that commencement."

4. Later on the Ruler enacted for the State, The Interim Constitution Act, 1952, sub Section (2) of Section 6 of which was couched in the following terms:-

"The Constitution of Pakistan which may be framed by the Constituent Assembly for Pakistan shall be the Constitution for the State, as for the other parts of Pakistan and shall be enforced by the Ruler for the time being, in accordance with the tenor of its provisions and the provisions of the said Constitution shall, as from the date of its commencement supersede and abrogate all other constitutional provisions inconsistent therewith which may be in force in the State at that time."

This Interim Constitution clearly contemplated its replacement by the Constitution which the Constituent Assembly was expected to make in respect of the State. The mere fact that under the Interim Constitution the Ruler was to act as a Constitutional Ruler did not in any way abrogate, amend or alter the terms on which the State had acceded to Pakistan under the different Instruments of Accession executed by the Ruler, nor did the Legislative Assembly set up in the State under the Interim Constitution get back what had been conceded in the Instruments of Accession. Whereas the Ruler had, under the Second Supplementary Instrument of Accession agreed to bind himself and the State in respect of all alterations and amendments to be made by the Constituent Assembly in the Government of India Act, 1935 The above quoted provision of the Interim Constitution Act, 1952 further clarified the position that all constitutional measures affecting the State, if and when enacted by the Constituent Assembly, were to apply to the State. As such the Establishment of West Pakistan Act, 1955 was as binding on the State, its Ruler and people as on the other territories and areas included in the new Province of West Pakistan.

5. The reference in the Third Supplementary Instrument of Accession to the inclusion of the duly appointed representative of the State in the Constituent Assembly of Pakistan was merely a statement of fact because at that time one representative of the State nominated by the Ruler was on the Constituent Assembly. This statement did not amount to an assertion that the Constitutional measures enacted by that Assembly were to be binding on the State only and so long as this right of representation was conceded and exercised, and the State representative took part in the deliberations of that Assembly.

6. Subsequently under clause 4 of the Constituent Assembly Order, 1955. (Governor General's order XII of 1955) the representation of the State in the Constituent Assembly was raised to two, and the Ruler's right to nominate the State representatives was reiterated in Section 2 of the Representatives of States and Tribal Areas Act, 1955. The Ruler consequently, on 14-7-1955, nominated Syed Ahmed Nawaz Shah Gardazi and Sh. Abdul Salam Respondents 4 and 5 respectively, to represent the State in the Constituent Assembly, vide the Bahawalpur Government Gazette of even date and these gentlemen took their seats in due course on the 18th August, 1955.

7. The Establishment of West Pakistan Act, 1955, whereby the then existing Governor's Provinces of the Punjab, the N.W.F. and Sind, the Chief Commissioner's Province of Baluchistan, the Capital of the Federation, the States of Bahawalpur and Khairpur and the Baluchistan States Union, the Tribal Areas of Baluchistan the Punjab and the N.W.F. and the States of Amb, Chitral, and Swat were incorporated into the Province of West Pakistan, was passed by the Constituent Assembly on the 30th September, 1955 and came into force on the 3rd October, 1955. This enactment virtually amended Section 46 of the Government of India Act, 1935 by substituting one big Province as a unit of administration in place of several smaller units, in the interest of greater efficiency, cohesion and economy in administration, and as such was binding on the Ruler and the People of the State by virtue of the above quoted provisions of the Instruments of Accession, and the Interim Constitution of the State.

8. The mere fact that no representative of the State was a member of the Constituent Assembly when the Representatives of States and Tribal Areas Act, 1955, was

passed would not in any way effect the provisions of that Act. In fact by this Act the representation of the State in the Constituent Assembly was doubled. The said Act was perfectly good law, and so was the Establishment of West Pakistan, Act, 1955. It was not necessary for the Constituent Assembly to make uniform provisions for providing representation of different States and Tribal Areas, in as much as the provisos to subsection (3) of Section 19 of the Independence Act, 1947 gave unfettered power to the Constituent Assembly to make provision in this matter according to its light. The petitioner or other residents of the State, having any interest therein, are not entitled to object to the different steps which were taken to enact the establishment of West Pakistan Act, 1955

9. There is no warrant for the proposition that so long as the right of representation in the Constituent Assembly was not enjoyed by the State, or that the representatives of the State did not participate in the proceedings of that Assembly no constitutional provision or other law enacted by the Assembly was to be binding on the State and its people. In the present case no right of representation on the Constituent Assembly was claimed for the State while conceding to that Assembly, through the different Instruments of Accession, the power to legislate for the State on a large number of subjects.

10. The appellant aggrieved by order of the High Court of West Pakistan at Lahore dated 1-9-1956 filed petition for Special Leave to appeal in this Hon'ble Court which was allowed on 5-2-1956.

It is therefore submitted that the merger of state in the Province of West Pakistan under the Establishment of West Pakistan Act 1955 was a perfectly valid act and is

binding on the appellant. It is prayed that the appeal may
be dismissed with costs.

Drawn by	Filed by
Abdul Haque	Iftikhar-ud-Din Ahmed
Advocate	Attorney for the Respondent

Supreme Court Lahore. Dated 8-9-1956.

Schedules

**Instrument of
Accession And
Supplementary
Instruments
Executed By The
Ruler Of
Bahawalpur State
With The
Government
Of Pakistan**

SCHEDULE

(1)

Instrument Of Accession

FIRST INSTRUMENT OF ACCESSION OF 3RD OCTOBER, 1947 BETWEEN BAHAWALPUR STATE, AND DOMINION OF PAKISTAN

Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as Pakistan, and that the Government of India Act, 1934, shall, with such omissions, additions, adaptations and modifications as the Governor-General may by order specify, be applicable to the Dominion of Pakistan;

And Whereas the Government of India Act, 1935, as so adapted by the Governor General provides that an Indian State may accede to the Federation of Pakistan by an Instrument of Accession executed by the Ruler thereof.

NOW THEREFORE

I, Sadiq Muhammed Khamis Abbasi, Ameer of Bahawalpur State in the exercise of my sovereignty in and over my said State Do hereby execute this my Instrument of Accession and,

1. I hereby declare that I accede to the Federation of Pakistan, the Federal Legislature, the Federal Court, and any other Federal Authority establishment for the purposes of the Federation shall, by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Federation, exercise in relation to the State of Bahawalpur (hereinafter referred to as "this State") such functions as maybe vested in them by or under the Government of India Act, 1935, as in force in the Dominion of Pakistan on the fifteenth day of August, 1947, (which Act as so in force is hereinafter referred to as "the Act.")

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

3. I accept matters specified in the Schedule hereto as the matters with respect to which the Federal Legislature may make laws for this State.

4. I hereby declare that I accede to the Federation on the assurance that if an agreement is made between the Governor-General and the Ruler of the State whereby any functions in relation to the administration in this State of any law of the Federal Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed

to form part of this Instrument and shall be construed and have effect accordingly.

5. Nothing in this instrument shall empower the Federal Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Federal Government of Pakistan for the purpose of a Federal law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of Pakistan.

6. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.

7. Nothing in this Instrument shall be deemed to commit me in any way to the acceptance of any future Constitution of Pakistan or to fetter my discretion to enter into agreement with the Government of Pakistan established under any such future Constitution.

8. Nothing in this Instrument effects the continuance of my sovereignty in and over this State; or, save as provided by or under this Instrument, the exercise of any powers, authority, rights and Jurisdiction now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this

Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this Third day of October, Nineteen hundred and forty-seven.

Sadiq Muhammed Abbasi,
Amir of Bahawalpur.

I do hereby accept this Instrument of Accession. Dated this Fifth day of October, Nineteen hundred and forty-seven.

M. A Jinnah,
Governor-General of Pakistan

SCHEDULE

The matters with respect of which the Dominion Legislature may make laws for this State

A.—Defence.

1. The Naval, Military and Air Forces of the Dominion and any other armed force raised or maintained by the Dominion ; including any armed forces raised or maintained by a federated State, which are attached to, or operating with, any of the armed forces of the Dominion.

2. Naval, Military and Air Force works, and administration of Cantonment areas save and except those belonging to the federated State.

3. Supply of fire-arms, ammunition and explosives for the use of Military Forces of the federated State.

4. Export by a federated State of fire-arms, ammunition and explosives outside Pakistan.

B.—External Affairs.

1. External affairs ; the implementing of treaties and agreements with other countries ; extradition, including the surrender of criminals and accused persons to parts of His Majesty's Dominions outside Pakistan.

2. Admission into and emigration and expulsion from Pakistan, including in relation thereto the regulation of the movement in Pakistan of persons who are not British subject domiciled in Pakistan or subjects of any federated State ; pilgrimages to places beyond Pakistan.

3. Naturalisation in the federated State of persons other than Pakistan Nationals.

C.—Communications.

1. Posts and Telegraphs, including Trunk telephones, wireless, broadcasting, and other like forms of communication for federal purposes.

2. Federal Railways ; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers ; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

3. Maritime shipping and navigation, including shipping and navigation on tidal waters ; admiralty jurisdiction.

4. Port quarantine.

5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.

6. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

7. Light-houses, including lightships, beacons and other provisions for the safety of shipping and aircraft.

8. Carriage of passengers and goods by sea or by air.

D.—*Ancillary.*

1. Offences against laws [with respect to any of the aforesaid matters.

2. Inquiries and statistics for the purpose of any of the aforesaid matters.

3. Jurisdiction and powers of all courts with respect of any of the aforesaid matters but, except with the consent of the Ruler of the federated State not so as to confer any jurisdiction or powers upon any courts other than courts ordinarily exercising in or in relation to that State.

II

AGREEMENT OF 1st OCTOBER 1948

Whereas Bahawalpur State has acceded to the Dominion of Pakistan and the defence of Pakistan including that of Bahawalpur State is the sole responsibility of the Government of Pakistan.

AND Whereas it is essential to the over all defence of the Dominion of Pakistan that there should be the closest co-ordination between the Governments of Pakistan and Bahawalpur State on matters relating to Defence or having a bearing thereon;

NOW THEREFORE

I, Sadiq Mohammad V Abbasi, Ameer of Bahawalpur State agree that,

1. The Bahawalpur State forces except the units of my Body-Guard shall be attached to and operate with the Pakistan Armed forces.

2. The Commander-in-Chief of the Pakistan Army shall also be the Commander-in-Chief of Bahawalpur State forces and shall exercise full operational, administrative and financial control over them under the direction of the Ministry of Defence, Government of Pakistan.

3. A sum to be determined by agreement between myself and the Government of Pakistan shall be paid by the Government of Bahawalpur every year in two equal instalments to the Government of Pakistan for the maintenance of State Forces.

4. In order to enable the Government of Pakistan to discharge effectively its responsibility in respect of acceded subjects the following additional clauses shall be inserted in the Schedule to the Instrument of Accession of Bahawalpur State;

(i) Under the heading "A—Defence"

"5. All matters relating to Defence or having a bearing thereon.

(ii) Under the heading "B—External Affairs"

"4. All relations with other Dominions or countries and all matters relating thereto or having a bearing thereon.

5. The Government of Pakistan may entrust to the Prime Minister of my State such duties relating to the administration of acceded subjects within the State as it may deem necessary. In the discharge of such duties the Prime Minister of my State shall be under the direct control of and responsible to the Government of Pakistan and shall carry out its directions issued to him from time to time,

Given under my hand this 1st day of October, 1948.

S. M. ABBASI,
Amir of Bahawalpur.

I do hereby accept the above Supplementary Instrument of Accession.

Dated this Fourth day of October Nineteen hundred and forty eight.

K. NAZIM-UD-DIN
Governor-General of Pakistan

III

ENCLOSURE A
SADIQGARH
30th December 1948

LETTER EXCHANGED BETWEEN CHIEF MINISTER
BAHAWALPUR STATE AND SECRETARY MINISTER
OF STATES AND FRONTIER REGION,

Dated 29th December 1948 And 30th December 1948.

I discussed this morning with my Prime Minister the undermentioned matter in regard to which he explained the wished of the Pakistan Government as expressed by Colonel A. S. B. Shah, My view on each item is given seriatim.

1. *Constitutional Position of the Ruler*—I agree that for the future the executive administration of the State shall rest with my Prime Minister working with his colleagues. He will keep me in close touch with matters of importance including question of policy and high appointments. The amount allotted to the Privy Purse will continue to be paid and administered as heretofore.

Keeping in view the demands of the day my intention have all along been to announce substantial reforms on March 8th when I complete 25 years as Ruler of my State.

2. *Revenue Minister*—I will abide by the former decisions taken in regard to Khan Bahadur Nubi Bakhsh Muhammed Hussian. I am telegraphing to him today to inform him that his services are no longer required. The recent order granting him a pension will be rescinded in respect of further payments.

3. *Bodyguards Units*.—Taking into consideration the immediate and important demands of Defence I agree with much pleasure to have the expenditure on my Bodyguard Units. The surplus personnel would be transferred to the control of the General Officer Commanding. It is my earnest request that the maintenance of the remaining half should remain my responsibility,

4. *Border Police*.—It is my sincere desire to assist meeting this new expenditure from my Privy Purse. The extent of my ability to do so will be intimated shortly after an examination of the financial position by my Prime Minister and Household Minister.

5. *National Guards*.—Units of National Guards raised by the G.O.C. State forces will remain his responsibility.

6. *Representation in Constituent Assembly*.—I agree that Bahawalpur shall be grouped with Khairpur and that I should nominate the Bahawalpur Representative.

Apart from the above I have agreed to assist the Defence Department to the utmost limit of the financial resources of the State. The details have been communicated in a letter from my Prime Minister to Colonel Shah. I trust that the Government of Pakistan will appreciate our determination and genuine desire to play our part to the best of our ability as a Unit of our Dominion of Pakistan.

30th December 1948.

S. M. ABBASI,



ENCLOSURE B.

BAGHDAD-UL-JADID,
BAHAWALPUR STATE.
The 29th December, 1948.

My dear Shah.

Reference to discussion between His Highness and yourself on the 29th instant regarding the adjustment of financial arrangements consequent on the transfer of Defence to the Pakistan Government I am to inform you that with His Highness's consent the Bahawalpur Government have decided that the utmost limit to which they can assist is Rs. one crore for the current financial year. A similar provision will be made in the financial year 1949-50 and 50-51 and if necessary, subsequent years. The amount will, however, be subject to review in March, 1950. In the first payment allowance will be made for the expenditure already incurred during the current financial year on the maintenance of the State Forces and the Body Guards Units.

Furthermore the Bahawalpur Government agree to place at the disposal of the Commander-in-Chief Pakistan a sum of Rs. one crore non-recurring towards the purchase of equipment for the State Forces. A minimum of Rs. 50 lakhs will be paid during the financial year 1949-50 and the balance in 1950-51. Efforts will, however, be made to pay as much as possible of the amount in 1949-50.

The above allocations will be re-adjusted if the present emergency subsides and circumstances permit of a general reduction in the Forces.

On receipt of confirmation His Highness will issue the necessary Firman.

Yours sincerely
A: J. DRING,

Lt. Col. A. S. B. Shah,
Secretary to the Government of Pakistan,
Ministry of States and Frontier Regions
Camp. at Bahawalpur.

AGREEMENT OF 22ND AUGUST, 1949.
AGREEMENT

Concluded between His Highness Major-General Nawab al Haj Sadiq Mohammad Khan Abbasi Bahadur. G.C.S.I., G. C. I.E., K.C.V.O.. LL.D., the Ruler of Bahawalpur and the Government of Pakistan at Karachi on Nineteenth January, Nineteen Hundred and Forty Nine

1. His Highness Major-General Nawab Al Haj Sir Sadiq Mohammad Khan Abbasi Bahadur, G.C.S.I., G.C.I.E.; K.C. V.O., LL.D., Nawab Sahib of Bahawalpur's statement dated the 30th December 1948 and Lieut. Colonel A. J. Dring, C.I.E. Prime Minister of Bahawalpur's letter dated the 29th December, 1948 to Lieut.—Colonel A. S. B. Shah, Secretary Ministry of States and Frontier Regions, (which form enclosures A and B of this Agreement) were discussed by the Hon'ble the Prime Minister of Pakistan with His Highness the Nawab of Bahawalpur on January 17th, 1949, and subsequently between Lieut.—Col A. S. B. Shah, Ministry of States and Frontier, Regions and Mr. Mumtaz Hasan, Financial Adviser, Military Finance on the one side, and the Prime Minister of Bahawalpur Lieut-Colonel A. J. Dring, C.I.E. on the other Agreement reached on the various points are set out hereunder.

(2) *Constitutional position of the Ruler.*—(a) Henceforth His Highness' position will be that of a Constitutional Ruler. The responsibility for the executive administration of the State shall rest with his Prime Minister working with his colleagues. The Prime Minister will however keep His Highness in close touch with matters of importance such as questions of policy and higher appointments.

(b) His Highness has agreed to limit his Privy Purse to the amount at present allotted, which will continue to be paid and administered as heretofore.

(c) Having regard to the demands of the day His Highness will announce further constitutional reforms on March 8th, 1949, when he completes 25 years of his rule with a view to associating his people closely with the administration of the State. The exact form of such reforms which is now under consideration will be communicated to the Government of Pakistan before it is finalised. These reforms will in any case represent a substantial advance on the District Board and Municipal elections already announced.

(3) *Khan Bahadur Nabi Bakhsh.*—It is agreed that in view of his past record Khan Bahadur Nabi Bakhsh will not be given employment in the State and he will not be permitted to enter the State or stay there.

(4) *His Highness' Bodyguard.*—It is agreed that the expenditure on the Bodyguards kept by His Highness will be limited to the sum of rupees five lakhs per annum. This additional expenditure will not be included in the sum allotted for Defence. The G. O. C. will be kept informed of the organisation and the strength of the units of the Bodyguards. The G. O. C. will make periodical inspections of the Bodyguards. Units and advise in regards to their training. All arms stores and equipment for the Bodyguards will be obtained through the G. O. C.

(5) *The Border Constabulary.*—The establishment and maintenance of an adequate and efficient force of border Constabulary has been approved by the Bahawalpur Government and the plans will be formulated as soon as possible in consultation with the Government of Pakistan.

(6) *National Guards.*—All National Guard Unit will come under the G. O. C. who will be responsible for raising, administering and training of these Units. The funds allotted for this purpose will be placed at the G. O. C.'s disposal.

(7) *Defence Allotment.*—(a) The allocation for Defence given in the Prime Minister Bahawalpur's letter of the 29th December 1948, namely rupees one crore recurring and rupees one crore non-recurring, are accepted by the Government of Pakistan. These allocations are exclusive of non-effective

charges relating to the State Forces. The recurring annual allotment will be paid to the Government of Pakistan in to equal instalments in the months of April and October every year. In all other respects the terms proposed in the Prime Minister Bahawalpur's letter of the 29th December 1948, are agreed to by the Government of Pakistan.

(b) It is agreed that the amount payable to the Pakistan Government in respect of current financial year will be arrived at after deducting from the sum of rupees one crore, the expenditure incurred on the State Forces and Bodyguard Units up to the 15th January 1949.

(3) *The S.V.P. Loan.*—It is agreed that the payment due to Bahawalpur State on account of compensation for the Railway Line which was lifted from the State territory during the Last war will be adjusted against the scheduled instalments due to the Pakistan Government on account of the Sutlej Valley Project Loan for the years 1947-48 and 1948-49

(9) *Customs, Excise and Income-Tax etc.*—(a) His Highness the Nawab of Bahawalpur agrees that the Government of Pakistan will organise and control a land customs line along the Indo-Bahawalpur border and the customs laws of Pakistan will apply to the State of Bahawalpur. The customs administration will be entrusted to the official appointed by the Government of Pakistan in this behalf. Appe-

als against the decisions of the local customs authorities will lie to the Revenue Division of the Ministry of Finance of the Government of Pakistan. The incidence of the cost of the land customs administration in Bahawalpur and the allocation of the State's share of the land customs revenue will form the subject of separate negotiation.

(b) It is also agreed that the Bahawalpur Government will adopt the Pakistan rates of excise duties and direct taxation.

Signed on this Nineteenth day of January, Nineteen Hundred and Forty Nine.

2nd August, 1949.

S. M. ABBASI,
Amier of Bahawalpur.

2nd September 1949.

KHWAJA NAZIMUDDIN,

SECOND SUPPLEMENTARY INSTRUMENT OF
ACCESSION OF THE BAHAWALPUR STATE.

Dated 29th April, 1951.

Whereas by an Instrument of Accession dated the third day of October 1947 (hereinafter referred to as the "Accession Instrument") I, Sadiq Muhammed V, Abbasi, Ameer of Bahawalpur State, declared that I had acceded to the Federation of Pakistan, under the provisions of Section 6 of the Government of India Act, 1935; as in force in Pakistan (hereinafter referred to as the "Constitution Act") and had specified in a Schedule annexed thereto, the matters with respect to which the Federal Legislature may make laws with respect to my State, and by the acceptance of the said Instrument of Accession by His Excellency the Governor General of Pakistan on the fifth day of October, 1947, the State of Bahawalpur (hereinafter referred to as "this State") was deemed to have acceded to the Federation of Pakistan;

And Whereas: by a supplementary Instrument executed by me on the first day of October, 1948 hereinafter referred to as the ("First Supplementary Instrument") which was accepted by His Excellency the Governor-General of Pakistan on the fourth day of October, 1948 I had specified matters, additional to those specified in my Instrument of Accession, as matters with respect to which the Federal Legislature of Pakistan may make laws for this State, and had assumed an obligation to make payments annually to the Government of Pakistan for the maintenance of the forces of this State;

And Whereas by an Agreement executed by me on the second day of August, 1949; and accepted by His Excellency

the Governor-General of Pakistan on the Second day of September, 1949, I had assumed certain further obligations touching the application of certain Pakistan laws to this State, and the payment of specified sums to the Government of Pakistan for the maintenance of the forces of this State;

Now Therefore, I, Sadiq Muhammed V, Abbasi, Ameer and Ruler of Bahawalpur State do hereby execute this Supplementary Instrument (hereinafter referred to as the "Second Supplementary Instrument") and

1. I hereby vary the Accession Instrument and the First Supplementary Instrument, in manner hereinafter described, that is to say, for the purpose of specifying the matters with respect to which the Federal Legislature may make laws for this State, the Schedule to the Accession Instrument and paragraph 4 of the first Supplementary Instrument shall be deemed to have been replaced by parts I and II of the Schedule annexed hereunto (hereinafter referred to as the 'said Schedule') wherein are specified the matters with respect to which the Federal Legislature may make laws for this State, with effect from the date on which the Second Supplementary Instrument is accepted by His Excellency the Governor-General (hereinafter referred to as the said date".) and I further declare that as from the said date, the Legislature of this State shall not have power to make laws with respect to any matter included in parts I and II of the said Schedule except as is expressly provided hereinafter.

2. I hereby further declare that as to all matters included in part III of the said Schedule, the Legislature of this State shall have exclusive power to make laws, subject only to the power of the Federal Legislature to make laws in regard to matters included in parts I and II of the said

Schedule, but the Legislature of this State may also make laws with respect to any matter included in part II of the said Schedule, provided that if any provision of any such law is repugnant to any provision in any Federal law made under clause I, or any existing Federal law applied to the State under clause 3 of the Second Supplementary Instrument and relating to a matter included in part II of the said Schedule, then if the law of the State Legislature, having been reserved for the consideration of His Excellency the Governor-General, has received his assent, the State law shall prevail in the State, but nevertheless the Federal Legislature may enact further legislation with respect to the same matter at any time;

Provided that no Bill or amendment for making any provision repugnant to any law of the State Legislature, which having been so reserved, has received the assent of the Governor General, shall be introduced or moved in the Federal Legislature without the previous sanction of His Excellency the Governor General.

3. I hereby further declare that for the better discharge of the functions assumed by His Excellency the Governor General in relation to this State, in respect of the matters enumerated in the said Schedule:-

(a) His Excellency the Governor General shall have power, by order, to extend to this State any existing Federal law relating to a matter included in parts I and II of the said schedule, with such modifications as may be necessary for the purpose of adapting its provisions to the conditions obtaining in this State; and

(b) the executive authority of the Federal Government shall be exercisable in this State in respect of all ma-

atters included in Parts I and II of the said Schedule either through the Ruler or his officers, or directly by officers of the Government of Pakistan, as may be determined by order, by His Excellency the Governor General either in relation to any particular matter or generally;

Provided that an order under this clause shall be made after prior consultation with the Ruler;

Provided further that nothing in this clause shall be construed to confer upon the Federal Government, in relation to any matter included in Part II of the said Schedule, any executive authority in excess of that exercisable by the Federal Government in relation to the same matter in a Governor's Province in Pakistan.

4. The matters included in the said Schedule are as to Part I thereof, the several matters included in List I Federal Legislative List, as to part II thereof, the several matters included in List III Concurrent Legislative List, and as to Part III thereof, the several matters included in List II Provincial Legislative List, in the Seventh Schedule to the Constitution Act on the date of execution of the Second Supplementary Instrument, and I hereby declare that any change which may be made hereafter by competent authority, in the aforesaid Lists, in their application to the Federation of Pakistan, shall have effect in relation to this State in such wise that the respective Part of the said Schedule shall be deemed to have been modified in the like manner as the corresponding list, and with effect from the same date.

5. I hereby further declare that if and so often as any provisions of the Constitution Act are altered by competent

authority, then the Accession Instrument and the First and Second Supplementary Instruments shall be deemed to have been modified in accordance therewith, and the said Instruments shall be construed in such manner as to be consistent with the altered provisions of the Constitution Act.

6. I hereby further declare that, with respect to all matters included in Parts I and II of the said Schedule, His Excellency the Governor General, the Federal Legislature, the Federal Court and any other Federal Authority established by law for the purposes of the Federation, shall, by virtue of the Second Supplementary Instrument, but subject always to the terms thereof exercise in respect of this State, as from the said date the functions vested in them on the said date by or under the Constitution Act in respect of the said matters;

Provided that in respect of any matter included in Parts I and II of the said Schedule which was not specified in the Schedule to the Accession Instrument or in paragraph 4 of the First Supplementary Instrument or in paragraph (9) of the Agreement executed by me on the Second day of August, 1949, the exercise of functions by any such Authority, other than His Excellency the Governor General and the Federal Legislature, shall, except in regard to functions specified in the Constitution Act as exercisable in relation to Federated States, commence from such date as shall be determined in this behalf by His Excellency the Governor-General.

7. I hereby further declare that the obligations assumed by me in the First Supplementary Instrument and in the Agreement executed by me on the second day of August, 1949, to make contributions to the Government of Pakistan for the maintenance of the forces of this State,

shall cease with effect from the said date, and in lieu thereof, the proceeds of any taxes imposed and collected by the Federal Government in this State (other than the Sales Tax) shall be appropriated by the Government of Pakistan;

Provided that if the said proceeds, in any financial year ending the thirty first day of March fall short of the sum of rupees seventy-five lakhs, the deficit from the said sum shall be made good out of the revenues of this State;

Provided further that without prejudice to any agreement between this State and the Government of Pakistan for allocation to this State of any portion of the proceeds of a Sales Tax levied elsewhere than in this State, the proceeds of the Sales-tax in this State, shall be allocated between the Government of Pakistan and the State in the same manner as the proceeds of the Sales-tax in a Governor's Province in Pakistan are allocated between the Government of Pakistan and the Provincial Government.

8. I hereby further declare that the express provisions of the Second Supplementary Instrument shall, as from the said date, have effect notwithstanding anything inconsistent therewith contained in the Constitution Act on the date of the acceptance of the Second Supplementary Instrument by His Excellency the Governor General, or in the Accession Instrument, or in the First Supplementary Instrument, or in the Agreement executed by me on the second day of August, 1949, but in all respects, the said provisions of the Constitution Act, the Accession Instrument, the First Supplementary Instrument and the said Agreement shall be construed in such wise as to give full effect, in all relevant respects, to the meaning and intention of the Second Supplementary Instrument.

9. Nothing in the Second Supplementary Instrument affects the continuance of my sovereignty in and over this State, or, in exercise of any powers, authority rights and Jurisdiction now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State, save as provided by the Second Supplementary Instrument.

10. I hereby declare that I execute the Second Supplementary Instrument on behalf of this State and that any reference in the Second Supplementary Instrument to me or to the Ruler of this State is to be construed as including a reference to my heirs and successors.

Govern under my hand this Twenty-ninth day of April, Ninteen hundred and fifty one.

S.M. Abbasi,
Ameer of Bahawalpur.

I do hereby accept this Supplementary of Accession.
Dated this thirtieth day of April, Ninteen hundred and fifty one.

K. Nazimuddin,
Governor General of Pakistan.

The Schedule (in three parts)



THE SCHEDULE

PART I

1. The defence of the Federation or any part thereof in peace or war; the naval, military and air forces of the Federation and any other armed force raised or maintained

by the Federation ; any armed forces which are not forces of the Federation but are attached to or operating with any of the armed forces of the Federation ; central intelligence bureau ; preventive detention for reasons of State connected with defence, external affairs, or the security of Pakistan or any part thereof ; persons subjected to such detention.

2. Naval, military and air force works; local self-Government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas, and, the delimitation of such areas.

3. External affairs ; the implementing of treaties and agreements with other countries ; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions out side Pakistan.

4. Ecclesiastical affairs, including European cemeteries.

5. Currency, coinage and legal tender.

6. Public debt of the Federation,

7. Posts and telegraphs, including telephones. wireless, broadcasting, the other forms of communications ; post office savings Bank.

8. Federal Public Services and Federal Public service Commission.

9. Federal Pensions, that is to say, pensions payable by the Federation or out of Federal revenues.

10. Works lands and buildings vested in; or in the possession of, His Majesty for the purposes of the Federation

no being naval, military or air force works), but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal law otherwise provides, and, as regards property in a Federated State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.

11. Libraries, museums, and similar institution controlled or financed by the Federation.

12. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical, or for the promotion of special studies.

12A. The setting up and carrying on of labour exchanges, employment information bureaus and training establishments.

13. *Omitted.*

14. Federal Surveys and Federal meteorological organisations.

15. Ancient and historical monuments ; archaeological sites and remains.

16. Census.

17. Admission into and emigration and expulsion from, Pakistan, including in relation thereto the regulation of the movements in Pakistan of persons who are not British subjects domiciled in Pakistan, or subjects of any Federated State ; pilgrimages to places beyond Pakistan.

18. Port quarantine ; seamen's and marine hospitals, and hospitals connected with port quarantine.

19. Import and export across customs frontiers as defined by the Federal Government.

20. Federal railway ; minor railways ; the regulation of all railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges; interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers.

21. Maritime shipping and navigation, including shipping and navigation on tidal waters ; Admiralty jurisdiction.

22. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

23. Fishing and fisheries beyond territorial waters.

24. Aircraft and air navigation ; the provision of aerodromes ; regulation and organisation of air traffic and of aerodromes.

25. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

26. Carriage of passengers and goods by sea or by air.

27. Copyright, inventions, designs, trademarks and merchandise marks.

28. Cheques, bills of exchange, promissory notes and other like instruments.

29. Arms ; firearms ; ammunition

30. Explosives.

31. Opium, so far as regards cultivation and manufacture, or sale for export.

32. Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport

33. Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations, owned or controlled by a Federated State and carrying on business only within that State or cooperative societies, and of corporations, whether trading or not, with objects not confined to one unit, but not including universities.

34. Development of industries where development under Federal control is declared by Federal law to be expedient in the public interest.

35. Regulation of labour and safety in mines and oilfields.

36. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest.

37. The law of insurance, except as respects insurance undertaken by a Federated State, and the regulation of the conduct of insurance business, except as respects business undertaken by a Federated State ; Government insurance, except so far as undertaken by a Federated State, or, by virtue of any entry in the Provincial Legislative List or the Concurrent Legislative List by a Province.

38. Banking, that is to say, the conduct of banking business by corporations other than corporations owned or controlled by a Federated State and carrying on business only within that State.

39. Extension of the powers and jurisdiction of members of a police force belonging to any province to any area in another province, but not so as to enable the police of one province to exercise powers and jurisdiction in another province without the consent of the government of that province; extension of the powers and jurisdiction of members of a police force belonging to any unit to railways areas outside that unit.

In this entry "province" includes a Chief Commissioner's Province and the Capital of Federation.

40. Elections to the Federal Legislature, subject to the provisions of this Act.

41. The salaries of the Federal Ministers, of Ministers of State and Deputy Ministers for the Federation, and of the President and Deputy President of the Federal Legislature; the salaries, allowances and privileges of the members of the Federal legislature; and, the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.

42. Offences against laws with respect to any of the matters in in this list.

43. Inquiries and statistics for the purposes of any of the matters in this list.

44. Duties of customs including export duties.

45. Duties of excise on tobacco and other goods manufactured or produced in Pakistan except:—

- (a) alcoholic liquors for human consumption;
- (b) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;
- (c) medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (b) of this entry.

46. Corporation tax.

47. Salt

48. State lotteries.

49. Nationality, citizenship and naturalisation.

50. Migration within Pakistan from or into a Governor's Province or a Chief Commissioner's Province or the Capital of the Federation.

51. Establishment of Standards of wight.

52. *Omitted.*

53. Jurisdiction and powers of all courts, except the Federal Court, with respect to any of the matters in this list and to such extent as is expressly authorised by Part IX of this Act, the enlargement of the appellate jurisdiction of the Federal Court, and the conferring thereon of supplemental powers.

54. Taxes on income other than agricultural income.

54A. The matters specified in the proviso to sub-section (2) of section one hundred and forty-two A of this Act

as matters with respect to which provision may be made by laws of the Federal Legislature.

54B. Taxes on the sale of goods. (Note; This entry shall cease to have effect after the 31st March 1952.)

55. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

56A. Duties in respect of succession to property.

56. Estate duty in respect of property.

57. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts.

58. Terminal taxes on goods or passengers carried by railway or air; taxes on railways fares and freights.

59. Fees in respect of any of the matters in this list, but not including fees taken in any court.

The following further matters are included in this Part until the thirty first day of March, 1954, hereinafter called "the said day" namely:—

(a) trade and commerce (whether or not within the State) in and the production supply and distribution of:—

- (i) cotton and woollen textiles;
- (ii) paper, including newsprint;
- (iii) foodstuffs, including edible oilseeds and oils;
- (iv) petroleum and petroleum products;

- (v) spare parts of mechanically propelled vehicles;
- (vi) coal;
- (vii) iron;
- (viii) steel;
- (ix) mica;

(b) unemployment and the setting up and carrying on of labour exchanges, employment information bureaux and training establishments.

(c) offences against laws with respect to any of the matters mentioned in the two immediately preceding paragraphs, enquiries and statistics for the purposes of any of these matters, jurisdiction and powers of all Courts, except the Federal Court, with respect to any of these matters and fees in respect of any of these matters but not including fees taken in any Court, but any law which, but for this and the two immediately preceding paragraphs, could not have been competently made shall, to the extent of the incompetency, cease to have effect from the said day except as respects things done or omitted to be done on or before that day.

PART II.

1. (a) Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in aid of the civil power.

(b) Measures to combat certain offences committed in connection with matters concerning the Central and Provincial Governments and the Establishment of a Police Force for that purpose.

1A. Preventive detention for reasons connected with the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of the passing of this Act.

3. Removal of prisoners and accused persons from one unit to another unit.

4. Civil Procedure, including the law of Limitation and all matters included in the Code of Civil Procedure at the date of the passing of this Act; the recovery in a Governor's Province or a Chief Commissioner's Province or the Capital of the Federation of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such, arising outside that Province.

5. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

6. Marriage and divorce; infants and minors; adoption.

7. Bills, intestacy, and succession, save as regards agricultural land.

8. Transfer of property other than agricultural land; registration of deeds and documents.

9. Trusts and Trustees.

10. Contracts, including partnership, agency, contracts of carriage, and other special forms of contract, but not including contracts relating to agricultural land.

11. Arbitration.

12. Bankruptcy and insolvency; administrators—general and official trustees.

13. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

14. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List I or List II.

15. Jurisdiction and powers of all courts except the Federal Court with respect to any of the matter in this List.

16; Legal, medical and other professions.

17. Newspapers, books and printing presses.

18. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient,

19. Poisons and dangerous drugs.

20. Mechanically propelled vehicles.

21. Boilers.

22. Prevention of cruelty to animals.

23. European vagrancy ; criminal tribes.
24. Inquiries and statistics for the purpose of any of the matters in this Part of this List.
25. Fees in respect of any of the matters in this Part of this List, but not including fees taken in any Court.
26. Factories.
27. Welfare of labour; conditions of labour; provident funds ; employers' liability and workman's compensation ; health insurance, including invalidity pensions ; old age pensions.
28. Unemployment insurance.
29. Trade unions ; industrial and labour disputes.
30. The prevention of the extension from one unit to another of infectious or contagious diseases or pests affecting men, animals or plants.
31. Electricity.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on inland waterways.
33. The sanctioning of cinematograph films for exhibition.
34. Persons subjected to preventive detention under Federal authority.

35. Inquiries and statistics for the purpose of any of the matters in this Part of this List.

36. Fees in respect of any of the matters [in this Part of this List, but not including fees taken in any court.

PART III.

1. Public order (but not including the use of Her Majesty's naval, military or air forces in aid of the civil power) ; the administration of Justice ; constitution and organisation of all courts, except the Federal Court, and fees taken therein.
2. Jurisdiction and powers of all court except the Federal Court with respect to any of the matters in this list ; procedure in Rent and Revenue Courts.
3. Police, including railway and village police.
4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein ; arrangements with other units for the use of prisons and other institutions.
5. Public debt of the Province.
6. Provincial public services and Provincial Public service Commission.
7. Provincial Pensions, that is to say, pensions payable by the Province or out of Provincial revenues.
8. Works, lands and buildings vested in or in the possession of Her Majesty for the purposes of the Province.
8. Compulsory acquisition of land.

10. Libraries museums and other similar institution controlled or financed by the Province.

11. Elections to the Provincial Legislature, subject to the provisions of this Act.

12. The salaries of the Provincial Ministry, of the Speaker and Deputy Speaker of the Legislative Assembly, the salaries, allowances and privileges of the members of the Legislative Assembly ; and, to such extent as is expressly authorised by Part III of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislative Assembly.

13. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

14. Public health and sanitation ; hospitals and dispensaries ; registration of births and deaths.

15. Pilgrimages, other than pilgrimages to places beyond Pakistan.

16. Burials and burial grounds.

17. Education, including Universities.

18. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I municipal tramways ropeways ; inland waterways and traffic thereon subject to the provisions of List III with regard to such waterways ; ports subject to the provisions in List I with regard to major parts ; vehicles other than mechanically propelled vehicles.

19. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.

20. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases ; improvement of stock and prevention of animal diseases ; veterinary training and practice ; pounds and the prevention of cattle trespass.

21. Lands, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents transfer, alienation and devolution of agricultural land ; land improvement and agricultural loans ; colonization ; Courts and Wards ; encumbered and attached estates ; treasure trove.

22. Forests.

23. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under Federal control.

24. Fisheries.

25. Protection of wild birds and wild animals.

26. Gas and gasworks.

27. Trade and Commerce within the Province ; markets and fairs money lending and money lenders.

28. Inns and Innkeepers.

29. Production, supply and distribution of goods ; development of industries, subject to the provisions in List I with respect to the development of certain industries under Federal control.

30. Adulteration of foodstuffs and other goods; weights and measures.

31. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors, opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respects poisons and dangerous drugs, to the provisions of List III.

32. Relief of the poor ; unemployment.

33. The incorporation, regulation, and winding-up of corporations, not being corporations specified in List I or Universities ; unincorporated trading, literary, scientific, religious and other societies and associations ; co-operative societies.

24. Charities and charitable institutions; charitable and religious endowments

35. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition.

36. Betting and gambling.

37. Offences against laws with respect of any of the matters in this list.

38. Inquiries and statistics for the purpose of any of the matters in this list.

39. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey

for revenue purposes and records of rights, and alienation of revenue.

40. Duties of excise on the following goods manufactured or produced in the Province and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in Pakistan:—

- (a) alcoholic liquors for human consumption ;
- (b) opium, Indian hemp and other narcotic drugs and narcotics ; non-narcotic drugs ;
- (c) medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

41. Taxes on agricultural income.

42. Taxes on lands and buildings, hearths and windows.

43. *Omitted.*

43-A. *Omitted*

44. Taxes on mineral rights, subject to any limitations imposed by any of Act of the Federal Legislature relating to mineral development.

45. Capitation taxes.

46. Taxes on professions, trades, callings and employments, subject, however, to the provisions of section one hundred and forty-two A of this Act.

47. Taxes on animals and boats.

48. Taxes on advertisements.

48A. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not.

48-B Taxes on the consumption or sale of electricity. subject, however, to the provisions of section one hundred and fifty-four A of this Act.

49. Cesses on the entry of goods into a local area for consumption, use or sale therein.

50. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

51. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

52. Dues on passengers and goods carried on inland waterways.

53. Tolls.

54. Fees in respect of any of the matters in this list, but not including fees taken in any Court.

Note:— The several items on the three Parts of this Schedule shall, for the purposes of the Second Supplementary Instruments, be read with such variations and adaptations as may be necessary to render the said items applicable to the State of Bahawalpur.

THE SUPPLEMENTARY INSTRUMENT OF BAHAWALPUR STATE

Karachi. the 1st March 1952

VI

Whereas in furtherance of my declared policy to provide for the increasing association of my people with the adminis-

tration of my State with a view to the progressive realisation of responsible Government in my State as a federated unit of Pakistan.

AND Whereas I have promulgated an Interim Constitution for my State in the Government of Bahawalpur (Interim Constitution) Act, 1952, which provides for the establishment of a responsible Government in my State ;

1. NOW Therefore I, Sadiq Mohammad V Abbasi, Ameer of the State of Bahawalpur declare that :—

- (i) I shall exercise my power and authority over my State in accordance with the provisions of the Interim Constitution ;
- (ii) the Constitution of Pakistan as framed by the Constituent Assembly of Pakistan, which includes the duly appointed representative of this State, shall be the Constitution for the State of Bahawalpur as for the other parts of Pakistan and shall be enforced as such by me, my heirs and successors in accordance with the tenor of its provisions ; and that the provisions of the said Constitution shall, as from the date of its commencement in my State, supersede and abrogate all other constitutional provisions inconsistent therewith which may be in force in this State immediately before that commencement ;
- (iii) notwithstanding anything contained in the State Instrument of Accession of the Bahawalpur State or in any of the Supplementary Instruments executed by me, the executive authority of the Federal Government shall be exercisable

in this State in respect of all matters included in Parts I and II of the Schedules appended to my second Supplementary Instrument dated the 29th day of April, 1951, either through me or my officers, or directly by the Government of Pakistan or its officers, as may be determined by the Governor-General, Provided that nothing in this clause shall be construed to confer upon the Federal Government, in relation to any matter included in Part II of the said Schedule, any executive authority in excess of that exercisable by the Federal Government in relation to the same matter in a Governor's Province in Pakistan ;

2. I further declare that I shall appoint an experienced officer with the approval of the Governor-General, as my Adviser to aid and advise me in the exercise of my powers and authority under the Government of Bahawalpur (Interim Constitution) Act, 1952, as the constitutional Ruler of my State and in the discharge of my functions in respect of matters with respect to which I am charged with special responsibility or matters regarding which I am required to act in my discretion or in the exercise of my individual judgment under the said Act. The Adviser so appointed shall also assist me in the discharge of such function as may be assigned to me by the Governor-General in respect of matters with respect to which the Federal Legislature has powers to make laws for my State with a view to ensuring that the effect is given within this State to the provisions of the Constitution and laws of Pakistan as far as they are, from time to time, applicable therein and to the directions of the Governor-General of Pakistan issued to me from time to time in this regard.

The terms and conditions of service of the said Adviser shall be such as may be agreed between me and the Government of Pakistan.

3. I further declare that should an occasion arise where I differ from the advice given to me on any matter by my Council of Ministers or my said Adviser, I shall seek the advice of the Government of Pakistan thereon and shall accept the advice so given.

Signed by me on this day the twentyseventh day of March in the year Nineteen hundred and fiftytwo.

S. M. ABBASI,
Ameer of Bahawalpur.

I do hereby accept this Supplementary Instrument of Accession. Dated this eleventh day of April, Nineteen hundred and fifty two.

GHULAM MOHAMMED,
Governor-General of Pakistan.

VII

AGREEMENT WITH HIS HIGHNESS THE AMEER
OF BAHAWALPUR REGARDING PRIVY PURSE,
PRIVATE PROPERTY AND RIGHTS AND
PRIVILEGES, DATED 11TH APRIL, 1952.

Agreement made this 11th day of April 1952 between His Excellency the Governor-General of Pakistan and His Highness the Ameer of Bahawalpur.

Whereas it has been decided that the constitution of

Pakistan adopted by the Constitution Assembly of Pakistan shall be the Constitution for the State of Bahawalpur as for the other parts of Pakistan and shall be enforced as such in accordance with the tenor of its provisions ;

AND Whereas it is expedient that the rights, privileges and dignities, including the dynastic succession and the privy purse of His Highness the Ameer shall be determined by agreement between him and the Government of Pakistan ;

It is hereby agreed as follows :—

Article I

His Highness the Ameer of Bahawalpur shall be entitled to receive annually from the revenues of the State of Bahawalpur for his privy purse a sum not exceeding Rs. 29,50,000 (Rupees Twenty Nine Lacs and Fifty Thousands only) free of all taxes as detailed in the schedule annexed to this agreement.

2. The said amount is intended to cover all the expenses of His Highness the Ameer of Bahawalpur and his family including expenses on account of his personal staff, bodyguard, tours, hospitality, maintenance of his residences, marriages and other ceremonies.

3. The said amount shall be payable to the Ameer of Bahawalpur in four equal instalments at the beginning of each quarter in advance.

4. The payment of the said amount as herein provided is guaranteed by the Government of Pakistan.

Article II

His Highness the Ameer shall be entitled to the full

ownership, use and enjoyment of all the jewels, jewellery, ornaments, shares, securities and other private properties, movable as well as immovable, not being State properties, belonging to him on the date of this agreement.

2. His Highness the Ameer shall furnish to the Government of Pakistan within three months of the date this Agreement lists of all the movable and immovable property held by him as such private property.

3. If any dispute arises as to whether any item of property is the private property of His Highness or State property, it shall be decided by the Governor-General of Pakistan whose decision shall be final and binding on all concerned.

Article III

His Highness the Ameer and the members of his family shall be entitled to all the personal privileges, dignities and titles enjoyed by them whether within or outside the territory of the State immediately before the date of this agreement.

Article IV

The Government of Pakistan guarantees the succession according to law and custom of the State of Bahawalpur to the Gaddi of the State and to the personal rights, privileges, dignities and titles of His Highness the Ameer of Bahawalpur.

In confirmation whereof His Excellency the Governor-General of Pakistan and His Highness the Ameer of Bahawalpur have respectively appended their signatures this 11th day of April 1952.

GHULAM MOHAMMED,
Governor-General of Pakistan.

S. M. ABBASI,
Ameer of Bahawalpur.

SCHEDULE

Privy purse of His Highness the Ameer of Bahawalpur

			Rs.	
1. Privy purse	...	...	20,00,000	Per annum.
2. Civil list reserve	...	...	2,00,000	"
3. Body guard	...	...	7,50,000	"
Total			29,50,000	"

ABDUR RAHIM KHAN,
Secretary to the Government of Pakistan,

VIII

AGREEMENT BETWEEN THE GOVERNMENT OF
PAKISTAN & HIS HIGHNESS THE AMEER OF
BAHAWALPUR, DATED 29TH APRIL, 1952.

Whereas the Government of Pakistan have decided that the Bahawalpur State Forces shall be integrated with the Pakistan Army and shall henceforth from part thereof;

NOW THEREFORE it has been agreed as follows:—

- (1) The Government of Pakistan shall forego with effect from 1st April 1952, the annual contribution made by the State of Bahawalpur to the Government of Pakistan towards the maintenance of the Bahawalpur State Forces as provided in Clause 7 of the Second Supplementary Instrument of Accession of the State dated the 29th April 1951;
- (2) the proceeds of any taxes imposed and collected by the Federation in the State of Bahawalpur,

including the sales tax shall be distributed between the Federation and the State as between the Federation and other Provinces of Pakistan on the basis of the recommendations contained in the Raisman Report and the provisions of the Supplementary Instruction of Accession of the State dated the 1st October 1948 and 29th April 1951 respectively shall stand modified accordingly;

- (3) the Bahawalpur State Forces shall be integrated with the Pakistan Army and shall form part thereof; provided that His Highness the Ameer of Bahawalpur's bodyguard shall continue to be regarded as Bahawalpur State Force and its strength and arrangements in regard to its financial, administrative and operational control shall continue as at present;
- (4) the present names of the Units comprising the Bahawalpur State Forces shall continue and the colours given to them by the Ameer of Bahawalpur shall be retained and used by them;
- (5) His Highness the Ameer of Bahawalpur shall continue to be the Colonel-in Chief of these Units;
- (6) the Ameer of Bahawalpur shall be entitled to draw annually from the revenues of the State a sum of Rs. 2,50,000 in addition to the existing annual grant of Rs. 5,00,000 for the maintenance of his bodyguard, to enable him to raise the salary of the personnel;
- (7) the Units of Pakistan Armed Forces stationed in the State will show due honour and courtesy to His Highness the Ameer of Bahawalpur and

at his request will provide within the State on ceremonial occasions, the necessary guards of honour :

in confirmation whereof Col. Abdur Rahim Khan, Secretary to the Government of Pakistan in the Ministry of States and Frontier Regions, has appended his signature on behalf of and with the authority of the Government of Pakistan ; and

His Highness Lt.-General Al-Haj Saddiq Mohammad Khan V Abbasi, Ameer of Bahawalpur, has appended his signature on behalf of himself and his heirs and successors

Dated 24th April 1952.

ABDUR RAHIM KHAN,
Secretary to the Government of Pakistan.

S. M. ABBASI, V,
Ameer of Bahawalpur.

BAHAWALPUR MERGER AGREEMENT

AGREEMENT MADE This Seventeenth day of December, 1954 between the Governor-General of Pakistan and His Highness the Ameer of Bahawalpur State.

Whereas in the best interest of the State Bahawalpur as well as of the Dominion of Pakistan it is desirable to provide for the secession of territories of the said State to the Dominion of Pakistan *and for the merger of the same in the proposed Unit of the said Dominion to be known as West Pakistan*

Article I.

His Highness the Ameer of Bahawalpur hereby cedes to the Government of the Dominion of Pakistan his sovereignty and all his rights, authority and powers as Ruler of the State of Bahawalpur together with all his territories and the authority, Jurisdiction and powers for the Government of the said State and territories shall vest in the Government of Dominion on and from the day to be fixed by the Governor General of Pakistan, hereinafter referred to as "the said day"

As from the said day the Government of the Dominion shall exercise all powers, authority and Jurisdiction for the Governance of the said State and territories in such manner and through such agency as it may think fit.

Article II.

His Highness the Ameer of Bahawalpur shall be entitled to receive annually from the Government of Pakistan for his privy purse a sum of Rs. 32 lakhs (Rupees thirty two lakhs only) free of all taxes.

The amount is intended to cover all the expenses of His Highness the Ameer of Bahawalpur and his family, body-guard, tours, hospitality, maintenance of his residence, marriages and all family ceremonies.

2. The said amount shall be payable to the Ameer of Bahawalpur in four equal instalments at the beginning of each quarter in advance.

The payment of said amount as herein provided is guaranteed by the Government of Pakistan.

Article III.

His Highness the Ameer shall be entitled to the full ownership, use and enjoyment of all the jewels, jewellery, ornaments, securities and other private properties, movable as well as immovable, not being State properties, belonging to him on the date of this agreement.

If any dispute arises as to whether any item of property is the private property of His Highness or State property, it shall be decided by the Governor-General of Pakistan whose decision shall be final and binding on all concerned.

Article IV.

His Highness the Ameer, Her Highness and His Highness children shall be entitled to all the personal privileges, dignities

& titles enjoyed by them whether within or outside the territory of the State immediately before the date of this agreement.

Article V.

The Government of Pakistan guarantees the succession according to law and customs of the State of Bahawalpur to the personal rights, privileges, dignities and titles of (His Highness the Ameer of Bahawalpur, as specified in Article II to IV above.)

Article VI.

This Agreement abrogates all the Instruments of Accession and agreements between the Governor-General of Pakistan and His Highness the Ameer of Bahawalpur signed so far.

In confirmation whereof the Governor-General of Pakistan and His Highness the Ameer of Bahawalpur have appended their signatures on this seventeenth day of December 1954

Sd/- GHULAM MOHAMMED,
Governor-General of Pakistan.

Sd/- S. M. ABBASI V
Ameer of Bahawalpur.